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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2013.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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Notice of foreclosure sale.
—Manner of notice, notice of foreclosure sale.

Notice of foreclosure sale.

— Manner of notice, notice of foreclosure sale.

Notice of foreclosure was issued by note holder's agent, as required under District of Columbia law, and, thus, loan servicer's foreclosure was not wrongful even if transfer of deed of trust from lender to loan servicer was not recorded, where agent who issued notice of foreclosure was also listed as lender's trustee on original deed of trust. Movahedi v. U.S. Bank, N.A., 2012 WL 1014582 (2012).

§ 42-815.01. Right to cure residential mortgage foreclosure default.

Section references. — This section is referenced in § 42-815.02.

Temporary Amendment of Section.

Section 2(a) of D.C. Law 19-173 amended (a) to read as follows:

"(a) For the purposes of this chapter, the term 'residential mortgage' means a loan secured by a deed of trust or mortgage, used to acquire or refinance real property which is improved by 4 or fewer single-family dwellings, including condominium or cooperative units."

Section 4(b) of D.C. Law 19-173 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary amendment of (a), see § 2(a) of the Saving D.C. Homes from Foreclosure Enhanced Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-493, October 26, 2012, 59 DCR 12722), applicable as of September 13, 2012.

Legislative history of Law 19-173. — Law 19-173, the "Saving D.C. Homes from Foreclosure Enhanced Temporary Amendment Act of 2012" was introduced in Council and assigned Bill No. 19-786. The Bill was adopted on first and second readings on June 5, 2012, and July 10, 2012, respectively. Signed by the Mayor on July 18, 2012, it was assigned Act No. 19-397 and transmitted to Congress for its review. D.C. Law 19-173 became effective on Oct. 9, 2012, and expires on May 22, 2013.

CASE NOTES

Expenses.

District of Columbia foreclosure statute requiring that mortgagor be given opportunity to cure the default once a notice of foreclosure was issued did not require loan servicer to specify amount of attorney fees, foreclosure costs, and all other charges and accruals owed in addition to deficiency in the loan payments in its notice of foreclosure; amount of such expenses depended on point in time mortgagor brought the account current, and the notice stated amount mortgagor was required to pay to bring the mortgage current, and noted that mortgagor would also have to pay reasonable attorney fees and expenses. Movahedi v. U.S. Bank, N.A., 2012 WL 1014582 (2012).

§ 42-815.02. Foreclosure mediation.

(a) For the purposes of this section, the term:

(1) "Borrower" means a residential mortgage borrower and, if different from the residential mortgage borrower, the person who holds record title.

(2) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

(3) "Lender" means a residential mortgage lender. The term "lender" shall include a trustee.

(4) "Loss mitigation analysis" means an analysis, performed by the lender, of a borrower's financial condition, using information in the borrower's loss mitigation application and any other information available to the lender, to evaluate and recommend options in lieu of foreclosure available to borrower from the lender.

(5) "Mediation" means a meeting between lender or trustee and the borrower, with the help of a neutral third-party mediator appointed by the Mediation Administrator, to attempt to reach agreement on a loss mitigation program for the borrower, including the renegotiation of the terms of a borrower's residential mortgage, loan modification, refinancing, short sale, deed in lieu of foreclosure, and any other options that may be available in lieu of foreclosure.

(6) "Mediation Administrator" means an individual designated by the Commissioner to administer mediation services under this section.

(7) "Mediation certificate" means a document issued by the Commissioner to a lender evidencing compliance with the mediation requirements of this act.

(8) "Mediation election form" means a form, prescribed by the Commissioner, upon which the borrower may elect to participate in mediation and certify compliance with the lender's loss mitigation documentation requirements.

(9) "Mediation report" means a summary of the mediation provided by the mediator to the Mediation Administrator on a form prescribed by the Commissioner.

(10) "Mortgage" means a lien instrument, including a mortgage or deed of trust, with at least 2 parties, in which the borrower grants a lien on residential real property to the lender as security for the repayment of a note or loan.

(11) "Notice of default on residential mortgage" means a notice given pursuant to § 42-815(b)(1), in the form that the Mayor shall, by rule, prescribe, which shall contain:

(A) The name and telephone number of the lender;

(B) The following loan information:

(i) The amount of the principal balance and outstanding interest owed;

(ii) All past due payments;

(iii) Penalties; and

(iv) The amount required to cure the default and reinstate the loan, including all past due payments, penalties, and fees; and

(C) Any other information that the Mayor shall, by rule, prescribe.

(12) "Notice of intention to foreclose a residential mortgage" means a notice given pursuant to § 42-815(c).

(13) "Power of sale" means the right of a lender to sell residential real property after an uncured default at a public auction as provided in this act to repay the note or other obligation secured by a deed of trust or mortgage.

(14) "Residential mortgage" shall have the same meaning as in § 42-815.01(a).

(15) "Settlement agreement" means the form, prescribed by the Mediation Administrator, upon which the terms and conditions of an agreement made pursuant to the mediation are set forth.

(16) "Trustee" means the person holding a lien on real property pursuant to a residential mortgage or the assignee for foreclosure of the residential mortgage.

(b) Notwithstanding the provisions of any other law, after a notice of default of a residential mortgage has been given pursuant to § 42-815(b)(1), the lender shall engage in mediation if the borrower elects under subsection (c) of this section. Prior to the foreclosure of any residential mortgage or deed of trust, a lender shall:

(1) Include with the notice of default on a residential mortgage which is mailed to the borrower pursuant to § 42-815(b)(1):

(A) Contact information which the borrower may use to reach an agent or representative of the lender with authority to explain the mediation process;

(B) A statement recommending that the borrower seek housing counseling services;

(C) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(D)(i) A description of all loss mitigation programs available from the lender and applicable to the residential mortgage subject to the notice of default of a residential mortgage; and

(ii) A description of the eligibility requirements for the loss mitigation programs applicable to the residential mortgage subject to the notice of default of a residential mortgage for these programs;

(E)(i) An application in the form that the Mayor, by rule, shall prescribe, for the loss mitigation programs available in connection with the residential mortgage subject to the notice of default of a residential mortgage; and

(ii) Instructions for completing and mailing the loss mitigation application, with one envelope addressed to the lender; and

(F) A mediation election form, in a form prescribed by the Mediation Administrator, with one envelope addressed to the lender, and one envelope addressed to the Mediation Administrator; and

(2) Provide a copy of the notice of default on a residential mortgage to the Mediation Administrator in accordance with the rules issued pursuant to subsection (i) of this section.

(c)(1) No later than 7 days after the date of the mailing of the form required by subsection (b) of this section, the Mediation Administrator shall mail the following to the borrower:

(A) A statement that the borrower is subject to foreclosure and must take immediate action to avoid foreclosure;

(B) A statement that the borrower is eligible to participate in foreclosure mediation;

(C) The contact information for the Mediation Administrator and a statement instructing that the borrower should immediately contact the Mediation Administrator to obtain additional information;

(D) A statement recommending that the borrower seek housing counseling services;

(E) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(F) A statement recommending that the borrower review the mediation election form and the loss mitigation application provided by the lender;

(G) A request for the borrower immediately to contact the Mediation Administrator and the lender if the borrower has not received a loss mitigation application and mediation election form from the lender;

(H) A request for the borrower to return the mediation election form to the Mediation Administrator and the lender, in the envelopes provided, no later than 30 days from the date of the mailing of the form required by subsection (b) of this section;

(I) A request for the borrower to return the loss mitigation application to the lender, in the envelope provided, no later than 30 days after the date of the mailing of the form required by subsection (b) of this section;

(J) A statement that the borrower will lose the right [to] participate in mediation if the mediation election form and the loss mitigation application are not returned within the stipulated 30-day time period;

(K) A statement that the borrower has to pay a $50 fee payable to the District to participate in mediation; and

(L) A statement that mediation will be held 45 days after the date of the mailing of the form required by subsection (b) of this section.

(2) No later than 20 days after the date of the mailing of the form required by subsection (b) of this section, the Mediation Administrator shall mail to the borrower:

(A) The information specified in paragraph (1) of this subsection;

(B) A statement that the mailing is a 2nd notice and that the borrower must take immediate action to avoid foreclosure.

(d)(1) To participate in mediation, no later than 30 days after the mailing of the notice of default on a residential mortgage and information required by subsection (b) of this section, a borrower shall return the mediation election form and a $50 fee to the Mediation Administrator, and the loss mitigation application to the lender. A borrower shall forfeit the right to mediation if the borrower does not return the mediation election form and the $50 fee to the Mediation Administrator, and the loss mitigation application to the lender, within 30 days after the mailing of the notice of default on a residential mortgage.

(2) For each borrower electing to participate in mediation, the Mediation Administrator shall schedule a mediation session to commence no later than 45 days after the mailing of the notice of default on a residential mortgage.

(3) If the borrower elects to waive mediation by not paying the $50 fee or by not returning the mediation election form or the loss mitigation application within 30 days after the mailing of the notice of default on a residential mortgage, the Mediation Administrator shall issue a mediation certificate to the lender no earlier than 45 days, but no later than 60 days, after the mailing

of the form required by subsection (b) of this section. The power of sale under a mortgage shall not be exercised until the Mediation Administrator has issued a mediation certificate.

(e)(1) Each mediation required by this section shall be conducted by a mediator appointed in accordance with rules issued pursuant to subsection (i) of this section. The lender, or a representative, and the borrower, or a representative, shall attend the mediation. The lender, or its representative, shall bring to the mediation the results of its loss mitigation analysis, a true copy of the mortgage, including the mortgage note or agreement, every assignment of the mortgage, evidence proving that the lender has standing to commence foreclosure against the borrower, and any other information required pursuant to the rules issued under subsection (i) of this section. If a representative of the lender, or the borrower, attends the mediation, the representative shall:

(A) Have authority to:

(i) Address loss mitigation programs that may be available to the borrower;

(ii) Renegotiate the terms of the residential mortgage, including a loan modification; and

(iii) Negotiate any other options that may be available in lieu of foreclosure; or

(B) Have access at all times during the mediation to a person with such authority.

(2)(A) The lender shall be subject to civil penalties payable to the District as follows:

(i) If the lender, or a representative, fails to attend the mediation, a penalty of $500 shall be imposed;

(ii) If the lender, or a representative, fails to bring to the mediation each document required by this subsection, a penalty of $500 shall be imposed; or

(iii) If the lender, or a representative, fails to participate in the mediation in good faith, a penalty of $500 shall be imposed.

(B) Penalties shall be enforceable by an action in the Superior Court of the District of Columbia.

(C) If the borrower fails to attend a scheduled mediation session without good cause shown, no later than 10 days after the scheduled mediation session missed by the borrower, the Mediation Administrator shall issue a mediation certificate to the lender.

(3) If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification or to any other options in lieu of foreclosure, no later than 5 days after the mediation session at which the parties were not able to reach an agreement, the mediator shall prepare and submit to the Mediation Administrator, on a form prescribed by the Commissioner, a recommendation that the matter be terminated. After reviewing and considering the mediator's report and any recommendations therein, no later than 5 days after receiving the mediator's report, the Mediation Administrator may issue a mediation certificate to the lender or refer the matter to another mediator.

(4) If the parties enter a settlement agreement:

(A)(i) If the lender breaches the terms of the settlement agreement entered into during mediation, the lender shall pay a penalty of $ 1,000 and shall be required to perform the terms of a settlement agreement.

(ii) This penalty shall be enforceable by an action in the Superior Court of the District of Columbia.

(B)(i) If the borrower breaches the terms of the settlement agreement entered into during mediation, the lender shall apply to the Mediation Administrator for a mediation certificate.

(ii) Upon receipt of the lender's application for a mediation certificate due to the borrower breaching the terms of the settlement agreement, no later than 10 days after the receipt of the application, the Mediation Administrator may issue a mediation certificate to the lender, the issuance of which shall not be unreasonably withheld.

(5) Mediation shall be concluded within 90 days of the mailing of the form required by subsection (b) of this section, unless extended for an additional 30 days by the mutual consent of both parties.

(f) The lender shall pay a fee of $300 for each notice of default on a residential mortgage issued. If the power of sale for a property is exercised, the lender may recover the $300 fee from the proceeds of sale if there is any amount remaining after the payment of all amounts due and owing by the borrower on the residential mortgage and the costs of the sale. The lender shall not be permitted to recover mediation fee paid if there is a deficiency upon the sale of the foreclosed property.

(g) The Mediation Administrator and each mediator who acts in good faith and without gross negligence pursuant to this section shall be immune from civil liability for those acts.

(h) Each foreclosure sale in violation of this act shall be void.

(i) Chapter 3 of Title 2 [§ 2-351.01 et seq.], or any successor act, shall not apply to any contract that the Mediation Administrator may enter into with mediators for the performance of mediation services.

(j) The Mayor, pursuant to subchapter I of Chapter 5 of Title [§ 2-501 et seq.], shall issue rules to implement the provisions of this section. The rules shall include provisions:

(1) Ensuring that mediations occur in an orderly and timely manner;

(2) Requiring each party to a mediation to provide such information as the Mediation Administrator determines to be necessary;

(3) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith; and

(4) Establishing procedures relating to the appointment of each mediator, the training and qualification requirements for each mediator, and the compensation to be paid to each person serving as a mediator.

(k) The participation in mediation shall not waive any other legal claims that the lender or borrower may have against each other.

(Mar. 3, 1901, 31 Stat. 1274, ch. 854, § 539b, as added Mar. 12, 2011, D.C. Law 18-314, § 2(c), 57 DCR 12404; Sept. 26, 2012, D.C. Law 19-171, §§ 101, 227, 59 DCR 6190.)

Section references. — This section is referenced in § 42-815 and § 42-815.03.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in the subsection designations; and substituted "Chapter 3A of Title 2" for "§ 2-301.01 et seq." in (i).

Temporary Amendment of Section.

Section 2(b) of D.C. Law 19-173 redesignated the second subsection (e) as (f), redesignated (f) through (i) as (g) through (j), repealed (h), and added (h-1),(h-2),(h-3),(h-4) to read as follows:

"(h-1) A foreclosure sale of property secured by a residential mortgage shall be void if a lender files a notice of intention to foreclose on a residential mortgage without a mediation certificate.

"(h-2) A borrower shall have the same rights to assert a claim for a defective notice of default on residential mortgage as the law provides for a defective notice of intention to foreclose on a residential mortgage.

"(h-3) Except as provided in subsections (h-1) and (h-2) of this section, a mediation certificate shall serve as conclusive evidence that all other provisions of this act and implementing regulations have been complied with and can be relied upon by a bona fide purchaser and a bona fide purchaser's lender or assigns.

"(h-4) Nothing in this act shall be construed to limit a borrower's right to assert a claim for fraud or monetary damages against the borrower's lender."

Section 4(b) of D.C. Law 19-173 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(b) of Saving D.C. Homes from Foreclosure Enhanced Emergency Amendment Act of 2012 (D.C. Act 19-378, June 15, 2012, 59 DCR 7380).

For temporary amendment of (e) through (i), and addition of (h-1) through (h-4), see § 2(b) of the Saving D.C. Homes from Foreclosure Enhanced Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-493, October 26, 2012, 59 DCR 12722), applicable as of September 13, 2012.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Legislative history of Law 19-173. — See note to § 42-815.01

§ 42-815.03. Establishment of Foreclosure Mediation Fund.

Temporary legislation. — Section 2(c) of D.C. Law 19-173 amended (a) and (b) to read as follows:

"(a) There is established as a nonlapsing fund the Foreclosure Mediation Fund ("Fund"), into which shall be deposited the fees and penalties generated by the foreclosure mediation program, the District's share of proceeds from the February 2012 consent judgments between the federal government and participating states, and any future designated settlements or funds. The February 2012 consent judgments are with Citibank, Wells Fargo, Ally Financial as successor of GMAC, Bank of America, and J.P. Morgan Chase.

"(b) The Fund shall be used for one or more of the following purposes:

"(1) Payment of mortgage-related or foreclosure-related counseling;

"(2) Mortgage-related or foreclosure-related legal assistance or advocacy;

"(3) Mortgage-related or foreclosure-related mediation;

"(4) Outreach or assistance to help current and former homeowners secure the benefits for which they are eligible under mortgage-related or foreclosure-related settlements or judgments; and

"(5) Enforcement work in the area of financial fraud or consumer protection."

Section 4(b) of D.C. Law 19-173 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(c) of Saving D.C. Homes from Foreclosure Enhanced Emergency Amendment Act of 2012 (D.C. Act 19-378, June 15, 2012, 59 DCR 7380).

For temporary amendment of (a), see § 2(c) of the Saving D.C. Homes from Foreclosure Enhanced Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-493, October 26, 2012, 59 DCR 12722), applicable as of September 13, 2012.

§ 42-820. Conveyance by and for individuals with mental disabilities following court order.

It shall and may be lawful to and for any person or persons with an intellectual disability or mental illness or *non compos mentis*, or for the committee or committees of such person or persons, in his, her, or their name or names, by the direction of the chancellor, signified by an order made, upon hearing all parties concerned, on the petition of the person or persons, for whom such person or persons with an intellectual disability or mental illness or *non compos mentis*, shall be seized or possessed in trust, or of the mortgagor or mortgagors, or of the person or persons entitled to the monies secured by or upon any lands, tenements, or hereditaments, whereof any such person or persons with an intellectual disability or mental illness or *non compos mentis*, is or are, or shall be seized or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof, to convey and assure any such lands, tenements, or hereditaments, in such manner as the chancellor shall, by such order so to be obtained, direct, to any other person or persons; and such conveyance or assurance, so to be had and made as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said person or persons with an intellectual disability or mental illness or *non compos mentis*, was or were, at the time of the making such conveyance or assurance, of sane mind, memory, and understanding, and without an intellectual disability or mental illness or *non compos mentis*, or had by him, her, or themselves executed the same. All and every person and persons with an intellectual disability or mental illness or *non compos mentis*, and only trustee or trustees, mortgagee or mortgagees, as aforesaid, or the committee and committees of all and every such person and persons with an intellectual disability or mental illness or *non compos mentis*, and only such trustee or mortgagee as aforesaid, shall and may be empowered and compelled, by such order so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances, as aforesaid, in like manner as trustees or mortgagees of sane memory are compellable to convey, surrender, or assign their trust estates or mortgages.

(4 Geo. 2, ch. 10, §§ 1, 2, 1731; Kilty's Rep. 249; Alex. Br. Stat. 700; Comp. Stat. D.C., p. 78, § 11; Apr. 3, 2001, D.C. Law 13-263, § 1601, 48 DCR 991; May 7, 2002, D.C. Law 14-132, § 602(b), 49 DCR 1552; Apr. 24, 2007, D.C. Law 16-305, § 58, 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 26(a), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" wherever it appears in the section.

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 11. RECORDATION TAX ON DEEDS.

Sec.
42-1102. Deeds exempt from tax.
42-1102.02. Transfer of economic interest defined.
42-1103. Imposition of tax; rate; return; contents; liability for tax; extension of period for filing, and waiver of, return.

§ 42-1102. Deeds exempt from tax.

The following deeds shall be exempt from the tax imposed by this chapter:

(1) Repealed;

(2) Deeds to property acquired by the United States of America or the District of Columbia, unless its taxation has been authorized by Congress;

(3) Deeds to real property acquired by an institution, organization, corporation, or government entitled to exemption from real property taxation under § 47-1002 (or exempt from recordation taxes under a law of the United States of America or the District of Columbia); provided, that, unless waived by regulation, a copy of a filed real property tax exemption application accompanies the deed at the time of recordation; provided further, that this exemption shall not apply to property which is exempt under § 47-1002(29) or § 47-1002(30);

(4) Deeds to property acquired by an institution, organization, corporation, or association entitled to exemption from real property taxation by special act of Congress, which property was acquired solely for a purpose or purposes for which such special exemption was granted; provided, that a return, under oath, showing the purpose or purposes for which such property was acquired, shall accompany the deed at the time of its offer for recordation;

(5) A purchase money mortgage or purchase money deed of trust that is recorded simultaneously with the deed conveying the real property for which the purchase money mortgage or purchase money deed of trust was obtained;

(6) Supplemental deeds;

(7) Deeds between spouses, parent and child, grandparent and grandchild, or domestic partners, as defined in § 32-701(3), without actual consideration therefor;

(8) Tax deeds;

(9) Deeds of release of property which is security for a debt or other obligation;

(10) Deeds of personal representatives of decedents, acting under the provisions of Title 20, transferring to a distributee, without additional consideration, real property of a decedent or a life estate in the real property;

(11) When a permanent loan deed of trust or mortgage is submitted for recordation and the tax on the construction loan deed of trust or mortgage has been timely and properly paid, no additional tax liability arises under § 42-1103, except where the amount of the obligor's liability secured by the permanent loan deed of trust or mortgage exceeds the amount of his liability secured by the construction loan deed of trust or mortgage, in which case the tax shall be calculated only on the amount of such difference; provided, however, that such permanent loan deed of trust or mortgage shall contain a

reference to the construction loan deed of trust or mortgage and the date and instrument number where it is recorded;

(12) Deeds to property transferred to a qualifying lower income homeownership household in accordance with § 47-3503(a);

(13) Deeds to property transferred to a qualifying nonprofit housing organization in accordance with § 47-3505(c);

(14) Deeds to property transferred to a cooperative housing association in accordance with § 47-3503(a)(2);

(15) Construction loan deeds of trust or mortgages or permanent loan deeds of trust or mortgages in accordance with § 47-3503(a)(3);

(16) Repealed.

(17) A deed by a transferor that conveys bare legal title to the trustee of a revocable trust, without consideration for the transfer, where the transferor is the beneficiary of the trust;

(18) A deed to property transferred to a beneficiary of a revocable trust as the result of the death of the grantor of the revocable trust;

(19) A deed to property transferred by the trustee of a revocable trust if the transfer would otherwise be exempt under this section if made by the grantor of the revocable trust;

(20) A deed to property transferred to a resident management corporation in accordance with § 47-3506.01;

(21) A security interest instrument in Class 1 Property, as that class of property is established pursuant to § 47-813(c-4), that contains no more than 5 dwelling units. Each security interest instrument submitted for recordation for which an exemption under this paragraph is claimed shall have affixed thereto an affidavit stating the following:

"I (we) the owner(s) of the real property described within certify, subject to criminal penalties for making false statements pursuant to § 22-2405 of the District of Columbia Code, that the real property described within is Class 1 Property, as that class of property is established pursuant to § 47-813(c-4), with 5 or fewer units.";

(22)(A) A deed to property transferred pursuant to § 29-204.06;

(B) In order for limited liability companies to receive the exemption provided in subparagraph (A) of this paragraph, the Recorder of Deeds shall be notified, within 30 days, of any change to the members or interests in profits and losses during the 12-month period following the effective date of the conversion so that the applicable recordation tax can be imposed;

(C) Violation of the provisions of subparagraph (B) of this paragraph shall be punishable pursuant to § 42-1120 [repealed];

(23) A deed for the improvements known as the District of Columbia Correctional Treatment Facility, located on a portion of Lot 800 of Square 1112E, with a street address of 1901 E Street, S.E.;

(24)(A) Deeds conveying, vesting, granting, or assigning title to, an interest in, a security interest in, or an economic interest in the real property (and any improvements thereon) described as Square 454, Lots 41, 824, 838, 857, 877, 878; the portion of the public alley that reverted to (i) former Lot 820,

(which is currently known as Lot 866), and (ii) former Lot 821 (which is currently known as Lot 867) pursuant to the Plat of Alley Closing filed with the Surveyor of the District of Columbia in Liber 17 at folio 74; and the portions of the public alley that will revert to Lots 41, 824, 838, 857, 877 and 878, all in Square 454, pursuant to the alley closing approved by the Closing of Public Alleys in Square 454 and Square 455, S.O. 98-194 Act of 1999, effective October 22, 1999 (D.C. Law 13-48; 46 DCR 6768);

(B) The amount of all taxes, fees, and deposits exempt, abated, or waived under this paragraph, § 2-1217.31(b), and §§ 47-902(17), 47-1002(26), and 47-2005(32) [(32) repealed], shall not exceed, in the aggregate, $ 7 million;

(25)(A) Deeds conveying, vesting, granting, or assigning title to, an interest in, a security interest in, or an economic interest in the real property (and any improvements thereon) described as Square 299, Lot 831, in connection with debt or equity financing for the Mandarin Oriental Hotel Project until the Development Sponsor sells the Mandarin Oriental Hotel Project, as evidenced by the recordation of a deed conveying title to Square 299, Lot 831, at which time such amounts shall be due and payable without penalty or interest;

(B) The amount of all taxes, fees, and deposits deferred under this paragraph, and §§ 2-1217.32(b), 47-902(19), 47-1002(27), and 47-2005(34), shall not exceed, in the aggregate, $4 million;

(C) For purposes of this paragraph, the term:

(i) "Development Sponsor" means Portals Hotel Site, LLC, a Delaware limited liability company, and its successors and assigns;

(ii) "Mandarin Oriental Hotel Project" means the acquisition and initial development, construction, equipping, and furnishing of a Mandarin Oriental hotel within the Portals project, located on Square 299, Lot 831, consisting of a 400-room hotel with approximately 33,000 square feet of associated meeting and banquet space, 2 restaurants, a health spa and fitness center totaling approximately 10,000 square feet, and approximately 90,000 square feet of public parking space for approximately 200 cars;

(iii) "Mandarin TIF Bonds" means the tax increment financing bonds issued in connection with the Mandarin Oriental Hotel Project pursuant to the Tax Increment Revenue Bonds Mandarin Hotel Project Emergency Approval Resolution of 2000, effective March 7, 2000 (Res. 13-510; 47 DCR 2133), and the Mandarin Hotel Project Modification Approval Resolution of 2000, effective December 19, 2000 (Res. 13-745; 48 DCR 83);

(D) This paragraph shall apply upon the closing of the sale of the Mandarin TIF Bonds;

(26) Deeds executed pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation;

(27) Deeds to an entity described in paragraph (3) of this section of a lease or ground rent for a term, including renewals, that is at least 30 years; provided, that if the entity were the owner of the real property in which the possessory interest is conveyed, the real property would have been entitled to exemption from real property taxation under § 47-1002; provided further,

that, unless waived by regulation, a copy of a filed real property tax exemption application accompanies the deed at the time of its offer for recordation;

(28)(A) A deed to residential real property, without consideration for the transfer, to the trustee of a special needs trust established for the benefit of a trust beneficiary who has a disability, as defined in § 1614(a)(3) of the Social Security Act, approved October 30, 1972 (86 Stat. 1471; 42 U.S.C. § 1382c(a)(3)), or from the trustee of a special needs trust that, by its terms, terminates upon the death of the trust beneficiary with a disability.

(B) For the purposes of subparagraph (A) of this paragraph, a trust is a special needs trust if the trust instrument:

(i) States, among its purposes, that the trust assets are not intended to be counted in determining the beneficiary's eligibility for needs-based governmental benefits; and

(ii)(I) Names the beneficiary with a disability as the sole trust beneficiary during his or her lifetime; and

(II) Provides that the beneficiary with a disability shall not serve as trustee;

(29) A security interest instrument securing a credit enhancement, such as a letter of credit, issued by a for-profit business organization, where such credit enhancement is required in connection with affordable housing financing provided by the District of Columbia Housing Finance Agency that is funded in whole or in part through bonds issued pursuant to the U.S. Department of Treasury's New Issue Bond Program. This paragraph shall apply as of January 1, 2009;

(30) Beginning October 1, 2009, a security interest instrument pertaining to a cooperative housing association;

(31) Beginning October 1, 2009, a deed of economic interest pertaining to a limited-equity cooperative, as defined under § 47-802(11); and

(32) A deed to property that provides extremely low- or low-income housing that is exempt from property taxation pursuant to § 47-1005.02.

(Mar. 2, 1962, 76 Stat. 11, Pub. L. 87-408, title III, § 302; June 24, 1980, D.C. Law 3-72, § 206, 27 DCR 2155; Sept. 13, 1980, D.C. Law 3-92, § 101(b), 27 DCR 3390; Mar. 10, 1982, D.C. Law 4-72, § 3(b), 28 DCR 5273; Oct. 8, 1983, D.C. Law 5-31, § 10(b), 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 5, 36 DCR 457; Sept. 9, 1989, D.C. Law 8-20, § 2(b), 36 DCR 4564; Mar. 7, 1992, D.C. Law 9-56, § 3, 38 DCR 7281; June 11, 1992, D.C. Law 9-120, § 4(a), 39 DCR 3195; June 14, 1994, D.C. Law 10-128, § 101(b), 41 DCR 2096; Sept. 8, 1995, D.C. Law 11-38, § 4(b), 42 DCR 3269; June 3, 1997, D.C. Law 11-276, § 7(a), 44 DCR 1416; Apr. 3, 2001, D.C. Law 13-241, § 3, 48 DCR 610; June 9, 2001, D.C. Law 13-305, § 506(b), 48 DCR 334; Oct. 19, 2002, D.C. Law 14-213, § 26, 49 DCR 8140; Mar. 25, 2003, D.C. Law 14-232, § 3, 49 DCR 9764; Apr. 4, 2003, D.C. Law 14-282, § 9(a), 50 DCR 896; Mar. 13, 2004, D.C. Law 15-105, § 73, 51 DCR 881; Sept. 8, 2004, D.C. Law 15-176, § 2, 51 DCR 5707; Apr. 5, 2005, D.C. Law 15-293, § 12, 52 DCR 1465; Oct. 20, 2005, D.C. Law 16-33, §§ 1212, 1296, 52 DCR 7503; Apr. 7, 2006, D.C. Law 16-91, § 114, 52 DCR 10637; Mar. 2, 2007, D.C. Law 16-191, § 62, 53 DCR 6794; Apr. 24, 2007, D.C. Law 16-305,

§ 59, 53 DCR 6198; Mar. 20, 2008, D.C. Law 17-118, § 201, 55 DCR 1461; Sept. 12, 2008, D.C. Law 17-231,§ 34, 55 DCR 6758; Dec. 13, 2011, D.C. Law 19-60, § 2, 58 DCR 9169; Sept. 20, 2012, D.C. Law 19-168, §§ 7102(a), 7133, 59 DCR 8025; Mar. 5, 2013, D.C. Law 19-210, § 5, 59 DCR 13171.)

Section references. — This section is referenced in § 2-1217.32, § 42-1103, § 42-1108.01, § 42-3404.02, § 47-902, § 47-1002, § 47-2005, § 47-3503, § 47-3505, § 47-3506.01, § 47-4603, § 47-4605, and § 47-4634.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 repealed (16), which read: "A deed that conveys an economic interest in improved residential real property that is owned by a cooperative housing association"; added (30), (31) and (32); and made related changes.

The 2013 amendment by D.C. Law 19-210 substituted "§ 29-204.06" for "§ 29-1013" in (22)(A).

Temporary Amendment of Section. — Section 103 of D.C. Law 19-226 amended (32) to read as follows:

"(32) A deed to property if the Mayor has certified that the property and purchaser are eligible for exemption from property taxation pursuant to D.C. Official Code § 47-1005.02."

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) amendment of section, see § 7102(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 7102(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary amendment of (32), see § 103 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary amendment of (32), see § 103 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-210. — Law 19-210, the "District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor's notes.

Section 3 of D.C. Law 19-60 provided:

"Sec. 3. Applicability.

"This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

The Budget Director of the Council of the District of Columbia has determined that as of September 20, 2012, the fiscal effect of Law 19-60 has been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 19-60, are in effect.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 42-1102.02. Transfer of economic interest defined.

(a) A transfer of an economic interest in real property occurs upon the conveyance, vesting, granting, bargaining, sale, or assignment, directly or indirectly, of a controlling interest by 1 or more persons or by 1 or more transactions, within any 12-month period, in any corporation, partnership, association, trust, or other entity that, during the 12-month period immediately preceding the transfer of an economic interest in real property:

(1) Derives more than 50% of its gross receipts from the ownership or disposition of real property in the District; or

(2) Holds real property in the District that has a value comprising 80% or more of the value of its entire tangible asset holdings.

(b) For the purposes of subsection (a) of this section, a transfer of a controlling interest includes the aggregate of the transfer of any legal, equitable, beneficial, or other ownership interest in:

(1) Any entity described in subsection (a) of this section;

(2) Any entity that is a partner in, shareholder in, or beneficiary of, an entity described in subsection (a) of this section; and

(3) Any other entity:

(A) That derives, directly or indirectly, any portion of its receipts from the ownership of any entity described in subsection (a) of this section; or

(B) Has asset value that includes, directly or indirectly, any legal, equitable, beneficial, or other ownership interest in any entity described in subsection (a) of this section.

(c) Notwithstanding any other provision of this section, as of October 1, 2009, every transfer of an interest in a cooperative housing association in connection with the grant, transfer, or assignment of a proprietary leasehold or other proprietary interest, in whole or in part, shall be a transfer of an economic interest.

(Mar. 2, 1962, 76 Stat. 11, Pub. L. 87-408, title III, § 302b, as added June 14, 1994, D.C. Law 10-128, § 101(d), 41 DCR 2096; Mar. 3, 2010, D.C. Law 18-111, § 7091(a), 57 DCR 181; Sept. 20, 2012, D.C. Law 19-168, § 7102(b), 59 DCR 8025.)

Section references. — This section is referenced in § 42-1101.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "this section, as of October 1, 2009, every transfer of an interest" for "this chapter, a transfer of shares" in (c); and made a stylistic change.

Legislative history of Law 19-168. — See note to § 42-1102.

§ 42-1103. Imposition of tax; rate; return; contents; liability for tax; extension of period for filing, and waiver of, return.

(a)(1) At the time a deed, including a lease or ground rent for a term (with renewals) that is at least 30 years, is submitted for recordation, it shall be taxed at the rate of 1.1% (to complete the calculation of total recordation tax due at time of recording, see also additional tax in subsection (a-4) of this section), as follows:

(A) A deed that conveys title to real property in the District shall be taxed at a rate of 1.1% (to complete the calculation of total recordation tax due at time of recording, see also additional tax in subsection (a-4) of this section) applied to the consideration for the deed; provided, that if there is no consideration for a transfer or if the consideration for the transfer is nominal, the rate shall be applied to the fair market value of the real property, as determined by the Mayor.

(B)(i) If there is a lease or ground rent for a term (with renewals) that is at least 30 years, the recordation tax shall be based upon the average annual

rent over the term of the lease, including renewals, capitalized at a rate of 10%, plus any additional consideration payable; provided that the amount to which the rate is applied shall not exceed the fair market value of the real property covered by the interest transferred.

(ii) If the average annual rent of the lease or ground rent for a term (including renewals) that is at least 30 years cannot be determined, the recordation tax will be based on the greater of:

(I) One hundred and five percent of the minimum average annual rent ascertainable from the terms of the lease, capitalized at a rate of 10%, plus any additional consideration payable; or

(II) One hundred and fifty percent of the assessed value of the real property covered by the interest transferred.

(2) Notwithstanding paragraph (1) of this subsection, at the time it is submitted for recordation, a deed that evidences a transfer of an economic interest in real property shall be taxed at the rate of 2.9% of the consideration allocable to the real property; provided, that, beginning October 1, 2009, in the case of a transfer of an economic interest in a cooperative housing association that is in connection with a grant, transfer, or assignment of a proprietary leasehold or other proprietary interest where the consideration allocable to the real property is less than $400,000, the rate of tax shall be 2.2%.

(3)(A) Notwithstanding paragraph (1) of this subsection, at the time a security interest instrument is submitted for recordation, it shall be taxed at a rate of 1.1% (to complete the calculation of total recordation tax due at time of recording, see also additional tax in subsection (a-4) of this section) of the total amount of debt incurred that is secured by the interest in real property; provided, that if the existing debt is refinanced, the rate shall be applied only to the principal amount of the new debt in excess of the principal balance due on the existing debt to the extent that such existing debt (including any prior debt that was previously refinanced by the existing debt) was:

(i) Previously taxable under this paragraph and the tax thereon was timely and properly paid; or

(ii) Exempt under § 42-1102 or not otherwise taxable, including purchase money mortgages described in § 42-1102(5).

(3)(B) Any amendment, modification, or restatement of a security interest instrument shall be deemed a refinance of the entire aggregate debt owed, unless the amendment, modification, or restatement is a supplemental deed. With such a deemed refinance, the rate in subparagraph (A) of this paragraph shall be applied only to the principal amount of the modified debt (including amounts paid to the borrower on the existing security interest instrument during the preceding 12 months) in excess of the principal balance due on the existing debt (before any such payment) to the extent that the existing debt (including any prior debt that was previously refinanced by the existing debt) was:

(i) Previously taxable under this paragraph and the tax thereon was timely and properly paid; or

(ii) Exempt under § 42-1102 or not otherwise taxable, including purchase money mortgages described in § 42-1102(5).

(4) Security interest instruments that qualify for exemption under § 42-1102 shall be exempt from the recordation tax.

(a-1) Repealed.

(a-2) Repealed.

(a-3) Repealed.

(a-4) Beginning October 1, 2006, except for residential properties transferred for a consideration less than $400,000, an additional tax of .35% is imposed upon a deed that is subject to the tax under subsection (a)(1) of this section. Of the funds collected under this subsection, 15% shall be deposited in the Housing Production Trust Fund established by § 42-2802, and the remainder shall be deposited in the General Fund of the District of Columbia.

(b)(1) Each such deed shall be accompanied by a return in such form as the Mayor may prescribe, executed by all parties to the deed, setting forth the consideration for the deed or debt secured by the deed, and such other information as the Mayor may require.

(2) The return shall be an integral part of the deed when prescribed and as required by regulation.

(3)(A) Notwithstanding paragraph (1) of this subsection, at the time a security interest instrument is submitted for recordation, it shall be taxed at a rate of 1.1% (to complete the calculation of total recordation tax due at time of recording, see also additional tax in subsection (a-4) of this section) of the total amount of debt incurred that is secured by the interest in real property; provided, that if the existing debt is refinanced, the rate shall be applied only to the principal amount of the new debt in excess of the principal balance due on the existing debt to the extent that such existing debt (including any prior debt that was previously refinanced by the existing debt) was:

(i) Previously taxable under this paragraph and the tax thereon was timely and properly paid; or

(ii) Exempt under § 42-1102 or not otherwise taxable, including purchase money mortgages described in § 42-1102(5).

(B) Any amendment, modification, or restatement of a security interest instrument shall be deemed a refinance of the entire aggregate debt owed, unless the amendment, modification, or restatement is a supplemental deed. With such a deemed refinance, the rate in subparagraph (A) of this paragraph shall be applied only to the principal amount of the modified debt (including amounts paid to the borrower on the existing security interest instrument during the preceding 12 months) in excess of the principal balance due on the existing debt (before any such payment) to the extent that the existing debt (including any prior debt that was previously refinanced by the existing debt) was:

(i) Previously taxable under this paragraph and the tax thereon was timely and properly paid; or

(ii) Exempt under § 42-1102 or not otherwise taxable, including purchase money mortgages described in § 42-1102(5).

(b-1)(1) A purchase money mortgage or purchase money deed of trust shall:

(A) Be fully executed within 30 days of the date that the deed conveying title to the real property to the purchaser is fully executed; and

(B) Be recorded within 30 days after the date that the deed conveying title to the purchaser of the real property is duly recorded.

(2) A purchase money mortgage or purchase money deed of trust submitted to the Mayor for recordation shall:

(A) Be executed by the purchaser of the real property as part of a series of transactions conveying title to real property to the purchaser;

(B) Reference the deed conveying title to the purchaser of the real property by date and instrument number;

(C) Recite on the face of the document that it is a purchase money mortgage or purchase money deed of trust; and

(D) Recite on the face of the document the amount of purchase money that it secures.

(c) The parties to a deed which is submitted to the Mayor for recordation shall be jointly and severally liable for payment of the taxes imposed by this section; provided, that neither the United States nor the District of Columbia shall be jointly and severally liable with the transferee; provided further, that, beginning October 1, 2009, in the case of a deed that evidences a transfer of an economic interest in a cooperative housing association, the cooperative housing association shall be jointly and severally liable with the parties to the deed for the payment of taxes imposed by this section regardless of whether the cooperative housing association itself is a party to the deed.

(d) The deed and accompanying return shall be due as prescribed in § 47-1431(a) for the recordation of a deed; provided, that if the deed and return are submitted to the Recorder of Deeds before the due date, the return shall be due and taxes shall be due and owing at the time of submission.

(Mar. 2, 1962, 76 Stat. 12, Pub. L. 87-408, title III, § 303; Oct. 21, 1975, D.C. Law 1-23, title II,§ 203, 22 DCR 2097; July 13, 1978, D.C. Law 2-91, § 304, 24 DCR 9765; Sept. 13, 1980, D.C. Law 3-92, § 101(c), 27 DCR 3390; July 25, 1989, D.C. Law 8-17, § 8(a), 36 DCR 4160; Sept. 9, 1989, D.C. Law 8-20, § 2(c), 36 DCR 4564; June 14, 1994, D.C. Law 10-128, § 101(e), 41 DCR 2096; April 9, 1997, D.C. Law 11-198, title I, § 101, 43 DCR 4569; April 9, 1997, D.C. Law 11-255, § 59, 44 DCR 1271; June 9, 2001, D.C. Law 13-305, § 506(c), 48 DCR 334; Oct. 26, 2001, D.C. Law 14-42, § 9, 48 DCR 7612; Apr. 4, 2003, D.C. Law 14-282, § 9(b), 50 DCR 896; June 5, 2003, D.C. Law 14-307, § 1102, 49 DCR 11664; Dec. 7, 2004, D.C. Law 15-205,§ 1232, 51 DCR 8441; Apr. 13, 2005, D.C. Law 15-354, §§ 61, 94, 52 DCR 2638; D.C. Law 16-123, § 161(a), 53 DCR 2843; Mar. 2, 2007, D.C. Law 16-192,§§ 1132(b), 2053, June 8, 2006, 53 DCR 6899; Mar. 14, 2007, D.C. Law 16-294,§ 12, 54 DCR 1086; Aug. 16, 2006, D.C. Law 17-219, §§ 2003(a), 7110, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, §§ 135, 170(b), 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 7091(b), 57 DCR 181; Sept. 20, 2012, D.C. Law 19-168, §§ 7102(c), 7122, 59 DCR 8025.)

Section references. — This section is referenced in § 10-1202.24, § 42-202, § 42-1102, § 42-1104, § 42-2802, § 42-2812.01, § 47-864, § 47-895.32, § 47-1081, § 47-1085, § 47-1088, § 47-1401, § 47-4406, § 47-4607, § 47-4608, § 47-4609, § 47-4614, § 47-4620, § 47-4639, § 47-4646, and § 47-4701.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added "(to complete the calculation of total

recordation tax due at time of recording, see also additional tax in subsection (a-4) of this section)" in the introductory language of (a)(1) and (a)(3)(A); in (a)(2), substituted "beginning October 1, 2009, in the case of a transfer of an economic interest" for "in the case of a transfer of shares" and deleted "in whole or in part" following "proprietary interest"; added the (a)(3)(A) and (a)(3)(A)(i) designations; substituted "to the extent that such existing debt (including any prior debt that was previously refinanced by the existing debt) was" for "that was previously subject to tax under this paragraph, which tax on the existing debt" in the introductory language of (a)(3)(A); added "Previously taxable under this paragraph and the tax thereon" in (a)(3)(A)(i); added (a)(3)(A)(ii) and (a)(3)(B); added "provided further, that, beginning October 1, 2009, in the case of a deed that evidences a transfer of an economic interest in a cooperative housing association, the cooperative housing association shall be jointly and severally liable with the parties to the deed for the payment of taxes imposed by this section regardless of whether the cooperative housing association itself is a party to the deed" in (c); and made related and stylistic changes.

Legislative history of Law 19-168. — See note to § 42-1102.

LAW REVIEWS AND JOURNAL COMMENTARIES

"The rental housing conversion and sale act: A practitioner's roadmap to tenant ownership." 2 The District of Columbia Law Review 91 (1993).

SUBTITLE II. BROKERS AND REALTORS.

Chapter 17. Real Estate Brokers' Duties.

Subchapter I. General.

§ 42-1707. Applications for payments from Fund; maximum payment; management of Fund.

Section references. — This section is referenced in § 42-1706.

CASE NOTES

Redirecting of funds.

Real Estate Licensure Act did not preclude Council of District of Columbia from transferring monies from Real Estate Guarantee and Education Fund to District's General Fund for purpose of balancing District's budget for fiscal year; although provision of Act required all sums paid pursuant to Act to be deposited with Treasurer and credited to Fund, it did not purport to bar Council from redirecting monies in Fund as needed. Wash., D.C. Ass'n of Realtors, Inc. v. District of Columbia, 44 A.3d 299, 2012 D.C. App. LEXIS 271 (2012).

Chapter 18. Real Estate Sale or Rent Signs.

§ 42-1801. Signs on sidewalk or parking prohibited; number of signs; removal; penalties.

Temporary legislation. — Section 7 of D.C. Law 19-181 repealed this section.

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a

law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) repeal of section, see § 7 of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary repeal of section, see § 7 of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

SUBTITLE III. CONDOMINIUMS.

CHAPTER 19. CONDOMINIUMS.

Subchapter I. General Provisions

Sec.
42-1901.04. Separate taxation.

Subchapter I. General Provisions.

§ 42-1901.04. Separate taxation.

(a) If there is any unit owner other than the declarant, a tax or assessment shall not be levied on the condominium as a whole or against any common elements, but only on the individual condominium units. A condominium unit shall be carried on the records of the District of Columbia and assessed as a separate and distinct taxable entity.

(b)(1) Notwithstanding subsection (a) of this section, for real property tax years beginning after September 30, 2011, horizontally or vertically abutting condominium units owned by the identical unit owner that comprise and are used as a single dwelling unit may be combined for assessment and taxation purposes into a separate and distinct taxable entity ("combined tax lot"); provided, that the unit owner applies for combined tax lot treatment pursuant to § 47-832.

(2) Combined tax lot treatment granted pursuant to paragraph (1) of this subsection shall take effect for the succeeding real property tax year following the date the application is received.

(Mar. 29, 1977, D.C. Law 1-89, title I, § 104, 23 DCR 9532b; Mar. 8, 1991, D.C. Law 8-233, § 2(d), 38 DCR 261; July 13, 2012, D.C. Law 19-150, § 2, 59 DCR 5132.)

Effect of amendments. — D.C. Law 19-150 designated the existing text as subsec. (a); and added subsec. (b).

Legislative history of Law 19-150. — Law 19-150, the "Combined Condominium Real Property Tax Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-188, which was referred to the Committee

on Finance and Revenue. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 11, 2012, it was assigned Act No. 19-356 and transmitted to both Houses of Congress for its review. D.C. Law 19-150 became effective on July 13, 2012.

Subchapter III. Control and Governance of Condominiums.

§ 42-1903.01. Bylaws; recordation; unit owners' association and executive board thereof; powers and duties; officers; amendment and contents thereof; responsibility for insurance on common elements.

Section references. — This section is referenced in § 42-1901.02 and § 42-1903.18.

Emergency legislation. — For temporary addition of provisions authorizing the 8th Street Plaza Condominium Association, Inc., to correct and amend its condominium instruments and to file documents associated with convertible and expandable land, see §§ 2 and 3 of the 8th Street Plaza Condominium Association, Inc. Clarification Act of 2012 (Oct. 22, 2012, D.C Act 19-431, 59 DCR 9416).

Editor's notes. — Section 2 of D.C. Law 19-178 provided:

"(a)(1) Notwithstanding any provision of law to the contrary, the principal officer of the 8th Street Plaza Condominium Association, Inc., '8th Street Association') for the 8th Street Condominium, located in Square 5956W and Lots 26, 27, 817, 818, and 2001 through 2034 in Square 5956 ('8th Street Condominium') may:

"(A) Through a simple majority of a quorum of its Board of Directors, correct, amend, and restate its condominium instruments, including its bylaws, declaration, and plats and plans ('modified instruments'), to correct any errors or omissions made by the declarant or other person; and

"(B) File the appropriate documents with the Mayor associated with convertible and expandable land ('C & E land') to be added to the 8th Street Condominium.

"(2) Notwithstanding any provision of law to the contrary, the Office of Tax and Revenue shall not require pre-payment of real property taxes and the Office of the Surveyor shall accept the modified instruments, and the C & E land documents or instruments, if any, for filing.

"(b)(1) The modified instruments and any C & E land documents or instruments shall be exempt from any filing fees established by the Mayor for services rendered by the Office of the Surveyor or the Recorder of Deeds.

"(2) The exemptions granted by paragraph (1) of this subsection shall expire one year after the effective date of this act.

"(c)(1) On the date that any modified instrument or C & E land document or instrument is filed with the Mayor, the Office of Tax and Revenue, the Recorder of Deeds, or the Office of the Surveyor, the Office of Tax and Revenue is authorized to reassess or redistribute, in accordance with D.C. Official Code § 47-835, any real property tax related to the 8th Street Condominium that is levied, unpaid, due, or resulting from these documents or instruments as of the date that the document or instrument was filed.

"(2) Any document or instrument filed pursuant to this act shall apply prospectively only for assessment and taxation purposes, and any lot created, discontinued, modified, or adjusted based on such document or instrument shall be effective for assessment and taxation purposes as of the beginning of the half tax year immediately succeeding the date such document or instrument is filed.

"(d) Except as provided in subsection (e) of this section, any lien for unpaid real property taxes or any tax sale outstanding with respect to any lot constituting part of the 8th Street Condominium shall be unimpaired by any document or instrument filed pursuant to this act.

"(e) If a lot is discontinued as a result of a filing made pursuant to this act, any unpaid real property tax for any period preceding the effective date of discontinuance shall be forgiven."

Section 3 of D.C. Law 19-178 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 42-1903.08. Unit owners' associations; powers and rights; deemed attorney-in-fact to grant and accept beneficial easements.

Section references. — This section is referenced in § 42-1901.01 and § 42-1903.18.

CASE NOTES

ANALYSIS

Amendment of complaint.
Common elements.

Amendment of complaint.

Trial court did not abuse its discretion in denying motion by condominium unit owner and its principal to amend the complaint a third time in action against condominium owners' association for violation of the Condominium Act and condominium instruments, failure to make repairs, retaliation, and breach of fiduciary duty, among other claims, where discovery was closed, litigation had been under way for three years, motion came at an unnecessarily late stage in the proceeding, principal and owner had twice been granted leave to amend the complaint, and they were not prejudiced by the denial. Harnett v. Washington Harbour Condominium Unit Owners' Ass'n, 2012 WL 2921943 (2012).

Common elements.

Condominium owners' association had powers under bylaws to grant a lease for a parking space in an area that had been a common element, although bylaws referred only to easements and licenses, where bylaws did not mention, much less expressly prohibit, association's board from exercising the broader power granted by the Condominium Act to grant an easement, lease, license, or concession through or over the common elements. Harnett v. Washington Harbour Condominium Unit Owners' Ass'n, 2012 WL 2921943 (2012).

§ 42-1903.13. Lien for assessments against units; priority; recordation not required; enforcement by sale; notice to delinquent owner and public; distribution of proceeds; power of executive board to purchase unit at sale; limitation; costs and attorneys' fees; statement of unpaid assessments; liability upon transfer of unit.

Section references. — This section is referenced in § 42-1901.01, § 42-1902.02, and § 42-1904.11.

CASE NOTES

Authority to foreclose.

Even if foreclosure sale of condominium owner's unit after he became delinquent on his condominium payments implicated the Due Process Clause, such was not violated by notice sent to owner by condominium unit owners association and manager of condominium, as association and manager satisfied statutory notice requirements, they made numerous efforts to notify owner about his payment delinquency, and due process did not require actual notice of the foreclosure. Harris v. Northbrook Condo. II, 44 A.3d 293, 2012 D.C. App. LEXIS 270 (2012).

Subchapter IV. Registration and Offering of Condominiums.

§ 42-1904.02. No offer or disposition of unit prior to registration; current public offering statement; right of cancellation by purchaser; form therefor prescribed by Mayor.

Section references. — This section is referenced in § 42-1901.01 and § 42-1904.01.

CASE NOTES

Exemptions.

Developer, which intended to convert a vacant row house into a condominium, was not procedurally barred from filing for a not-a-housing-accommodation exemption (NHA exemption) from the conversion fee under the Rental Housing Conversion and Sale Act (Conversion Act) because the Rental Conversion and Sales Division (CASD) of the Department of Housing and Community Development had already issued a notice of filing on developer's condominium registration application, as developer's delayed request for the NHA exemption occurred because developer at first was not aware it qualified for the exemption, developer filed the request shortly after it filed its registration application, the issuance of the notice of filing neither commenced nor ended the conversion process, and CASD was not prejudiced by developer's delay. 1303 Clifton St., LLC v. District of Columbia, 39 A.3d 25, 2012 D.C. App. LEXIS 85 (2012).

Letter from the Administrator of the Rental Conversion and Sales Division (CASD) of the Department of Housing and Community Development, outlining a procedural bar against developer from obtaining a not-a-housing-accommodation exemption (NHA exemption) from the conversion fee under the Rental Housing Conversion and Sale Act (Conversion Act) because the CASD had already issued a notice of filing on developer's condominium registration application, was not entitled to a heightened level of deference when developer judicially challenged the purported procedural bar, as the Administrator's letter was an informal ruling, rather than a rule or regulation adopted through a formal notice-and-comment rulemaking proceeding or contested case in conformity with the District of Columbia Administrative Procedure Act (DCAPA). 1303 Clifton St., LLC v. District of Columbia, 39 A.3d 25, 2012 D.C. App. LEXIS 85 (2012).

Developer, which intended to convert a vacant row house into a condominium, was not judicially estopped from filing for a not-a-housing-accommodation exemption (NHA exemption) from the conversion fee under the Rental Housing Conversion and Sale Act (Conversion Act) because the Rental Conversion and Sales Division (CASD) of the Department of Housing and Community Development had already approved developer's application for the vacancy exemption from the tenant approval provision of the Conversion Act; in both its vacancy exemption application and its conversion fee application developer characterized the building as an uninhabitable shell, and developer did derive an unfair advantage or impose an unfair detriment on CASD by seeking the additional conversion fee exemption. 1303 Clifton St., LLC v. District of Columbia, 39 A.3d 25, 2012 D.C. App. LEXIS 85 (2012).

SUBTITLE IV. HOUSING ENHANCEMENT PROGRAMS.

CHAPTER 21A. AFFORDABLE HOUSING CLEARINGHOUSE DIRECTORY.

Subchapter I. Affordable Housing Clearinghouse Directory

Sec.
42-2131. Definitions.
42-2133. Agency submission of affordable housing data to the Mayor.
42-2136. List of affordable housing developments.

Subchapter II. Comprehensive Tracking Plan for Affordable Housing Inventory

Sec.
42-2141. Definitions.
42-2142. Inventory tracking requirements.

Subchapter I. Affordable Housing Clearinghouse Directory.

§ 42-2131. Definitions.

For the purposes of this subchapter, the term:

(1) "Affordable housing development" means any structure or building in the District (whether existing, planned, or under construction) containing one or more affordable housing units and the land appurtenant thereto, including privately owned units, rental properties, public housing, cooperatives, and limited-equity cooperatives.

(2) "Affordable Housing Inventory" means a single, unified, searchable, and sortable database of all affordable housing developments that is maintained by the Mayor.

(3) "Affordable Housing Locator" means a list of affordable housing developments generated using data in the Affordable Housing Inventory that the Mayor provides to the public in an effort to assist low-income and moderate-income households locate available affordable housing.

(4) "Affordable housing unit" means a dwelling that is offered for rent or for sale for residential occupancy and is made available to, and affordable to, a household whose income is equal to, or less than, 120% of AMI, as a result of a federal or District subsidy.

(5) "AMI" means the periodic Area Median Income calculation provided by the United States Department of Housing and Urban Development as a direct calculation without taking into account any adjustments.

(6) "Household" means all the persons who would occupy an affordable housing unit, including a single family, one person living alone, 2 or more families living together, or any other group of related or unrelated persons who share living arrangements.

(Aug. 15, 2008, D.C. Law 17-215, § 2, 55 DCR 7494.)

Editor's notes. — Because of the codification of D.C. Law 19-168, §§ 2092 and 2093 as subchapter II of this chapter, the preexisting text, including §§ 42-2131 through 42-2136, has been designated as subchapter I.

§ 42-2133. Agency submission of affordable housing data to the Mayor.

(a) The Mayor shall require the following agencies to provide the information required by § 42-2135 to the Mayor, or the Mayor's designee:

(1) The Office of the Deputy Mayor for Planning and Economic Development;

(2) The Office of Planning;

(3) The Department of Human Services;

(4) The Department of Mental Health;

(5) The Office of Aging;

(6) The Office of Victims Services;

(7) The Department of Housing and Community Development;

(8) The District of Columbia Housing Finance Agency;

(9) The District of Columbia Housing Authority; and

(10) Any other District agency involved in the development, planning, provision of financing, subsidy, funding, or any form of financial assistance, facilitation, administration, compliance, monitoring, or oversight of housing requirements and programs that create or subsidize the operation of affordable housing units in the District of Columbia.

(b) With respect to affordable housing developments for which applications for financing, subsidy, funding, or any other form of financial assistance from the District of Columbia were processed and that are under construction on August 15, 2008, an agency subject to this subchapter shall submit the report required by this section within 3 months of August 15, 2008.

(c)(1) With respect to affordable housing developments for which applications for financing, subsidy, funding, or any other form of financial assistance from the District of Columbia were processed and that are either completed and occupied or ready for occupancy on August 15, 2008, an agency subject to this subchapter shall submit the report required by this section within 6 months of August 15, 2008.

(2) The agency shall review the information for accuracy and update it as appropriate not less than once every 12 months.

(d) An agency subject to this subchapter shall submit the information required by this section to the Mayor on a quarterly basis after the initial submission required by this section.

(Aug. 15, 2008, D.C. Law 17-215, § 4, 55 DCR 7494.)

§ 42-2136. List of affordable housing developments.

(a) The Affordable Housing Locator shall include the following information about any affordable housing development located in the District:

(1) Name of the affordable housing development, where applicable;

(2) Address of the affordable housing development/unit, unless the owner or manager of the development requests that the address not be published to protect the confidentiality of the residents, and provides reasonable grounds for the request, such as the residents are participants in an ex-offender, substance abuse, victims of abuse, or mental disability program;

(3) Population served by affordable housing development/unit, where specificity is appropriate, such as elderly, persons with disabilities, or family, unless the owner or manager of the development requests that the address not be published to protect the confidentiality of the residents, and provides reasonable grounds for the request, such as the residents are participants in an ex-offender, substance abuse, victims of abuse, or mental disability program;

(4) Any population specifically served by the affordable housing development, such as elderly persons, persons with disabilities, and low-income individuals or families;

(5) Type of affordable housing development/unit (i.e., single-family, multifamily, townhouse, rental, ownership, condominium, homeowner association, cooperative, limited equity cooperative);

(6) Name and contact information for the agent selling or renting the property;

(7) Rent charge or sale price, utilities paid by the tenant or owner, and underlying mortgage, condominium and cooperative fees, and other carrying charges, per affordable housing unit;

(8) Maximum percentage of AMI and income for which units would be affordable;

(9) Other subsidy or financial assistance program requirements for the affordable housing development, if any;

(10) Number of bedrooms in the affordable housing unit; and

(11) Whether there are affordable housing units in the development that are accessible for persons with disabilities.

(b) The Affordable Housing Locator shall display the information required by this subchapter in various formats to allow the public the maximum flexibility in sorting through the information. The Affordable Housing Locator that is made available to the public by way of the internet shall be searchable and sortable by ward, target population, income limitation, affordable housing unit size, and rent or sales price.

(Aug. 15, 2008, D.C. Law 17-215, § 7, 55 DCR 7494.)

Section references. — This section is referenced in § 42-2135.

Temporary Addition of Section. — Sections 2 to 4 of D.C. Law 19- (Act 19-637) added provisions concerning affordable dwelling unit hardship waiver to read as follows:

"Sec. 2. Definitions. For the purposes of this act, the term:

"(1) 'Affordable Dwelling Unit' shall have the same meaning as the term 'affordable housing unit' as defined in section 2(4) of the Affordable Housing Clearinghouse Directory Act of 2008, effective August 15, 2008 (D.C. Law 17-215; D.C. Official Code § 42-2131(4)).

"(2) 'Area Median Income' or 'AMI' shall have the same meaning as provided in section 2(1) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801(1)).

"Sec. 3. Hardship waiver eligibility criteria.

"(a) Where allowable by law, covenant, contract, and condominium documents, the Mayor may grant a unit owner the ability to rent the unit owner's Affordable Dwelling Unit for one year, which may be renewed annually.

"(b) The unit owner must demonstrate a current condominium fee increase on the unit owner's Affordable Dwelling Unit of $150 or 25% or more annually, whichever is greater. "Sec. 4. Comprehensive Affordable Dwelling Unit report.

"The Mayor shall submit a report by September 30, 2013, to the Council that examines the following Affordable Dwelling Unit issues:

"(1) The Mayor's ability to amend the Affordable Dwelling Unit guidelines of the originating funding source agency or authority.

"(2) Whether each originating local subsidy

provides the unit owner with the ability to rent the unit owner's Affordable Dwelling Unit.

"(3) Recommendations for resources, including staffing, funding, and technology, regarding the District's administration of affordable housing.

"(4) The policy and fiscal impacts of granting a unit owner with the ability to rent or sell the unit owner's Affordable Dwelling Unit at an AMI level higher than the level initially set."

Section 6(b) of D.C. Law 19- (Act 19-637) provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary addition of provisions concerning hardship waiver eligibility, see §§ 2-4 of the Affordable Dwelling Unit Hardship Waiver Emergency Act of 2012 (D.C. Act 19-620, January 18, 2013, 60 DCR 1334).

Subchapter II. Comprehensive Tracking Plan for Affordable Housing Inventory.

§ 42-2141. Definitions.

For the purposes of this subchapter, the term:

(1) "Affordable housing unit" means a unit of housing that is offered for rent or for sale for residential occupancy and as a result of a federal or District subsidy is made available and affordable to households whose income levels are less than or equal to 120% of the area median income.

(2) "Area median income" means:

(A) For a household of 4 persons, the area median income for a household of 4 persons in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development;

(B) For a household of 3 persons, 90% of the area median income for a household of 4 persons;

(C) For a household of 2 persons, 80% of the area median income for a household of 4 persons;

(D) For a household of one person, 70% of the area median income for a household of 4 persons; and

(E) For a household of more than 4 persons, the area median income for a household of 4 persons, increased by 10% for each household member exceeding 4 persons (for example, the area median income for a family of 5 shall be 110% of the area median income for a family of 4; the area median income for a household of 6 shall be 120% of the area median income for a family of 4).

(3) "Extremely low-income" means a household income equal to 30% or less of the area median income.

(4) "Homeless" means a person:

(A) Who is lacking a fixed, regular residence that provides safe housing and the financial means to acquire such a residence immediately; or

(B) Whose primary night-time residence is:

(i) A supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations; or

(ii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(5) "Low-income" means a household income equal to, or less than, 80% of the area median income and greater than 50% of the area median income.

(6) "Very low-income" means a household income equal to, or less than, 50% of the area median income and greater than 30% of the area median income.

(Sept. 20, 2012, D.C. Law 19-168, § 2092, 59 DCR 8025.)

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 42-2142. Inventory tracking requirements.

No later than December 1, 2012, the Mayor shall transmit to the Council an implementation plan that details the budget and resources necessary to begin tracking the Department of Housing and Community Development's ("DHCD") affordable housing inventory. The plan shall explicate the process and analyze the budget and resources necessary to begin tracking the number of:

(1) Affordable housing units that remain under affordability restrictions administered by DHCD, including the number of units that are:

(A) Made affordable to low-income households;

(B) Made affordable to very low-income households;

(C) Made affordable to extremely low-income households;

(D) Made available for homeownership;

(E) Made available for rent; and

(F) Specifically allocated for:

(i) Individuals diagnosed with HIV/AIDS;

(ii) Individuals diagnosed with a mental illness;

(iii) Individuals diagnosed as deaf or hearing impaired;

(iv) Individuals, and families, who are homeless;

(v) Individuals who are victims of domestic violence; and

(vi) Individuals diagnosed with a developmental disability;

(2) Low-income, very low-income, and extremely low-income households and individuals currently residing in the affordable housing units described in paragraph (1) of this section, including those listed in paragraph (1)(F)(i) through (vi) of this section;

(3) Affordable housing units that will exit affordability restrictions within the next 5 years, 10 years, 20 years, 30 years, or 40 years, including a delineation of their affordability levels and whether they are allocated for those individuals listed in paragraph (1)(F)(i) through (vi) of this section; and

(4) Affordable housing units in each ward, including a delineation of their affordability levels and whether they are allocated for those individuals listed in paragraph (1)(F)(i) through (vi) of this section.

(Sept. 20, 2012, D.C. Law 19-168, § 2093, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 42-2141.

SUBTITLE V. HOUSING FINANCE AND ASSISTANCE.

CHAPTER 28. HOUSING PRODUCTION TRUST FUND.

Subchapter I. General Provisions

Sec.
42-2802. Housing Production Trust Fund established.

Subchapter I. General Provisions.

§ 42-2802. Housing Production Trust Fund established.

(a) There is established the Housing Production Trust Fund as a permanent revolving special revenue fund within the Governmental Funds of the District apart from the General Fund consisting of identifiable, renewable, and segregated capital, which shall be administered by the Department to provide assistance in housing production for targeted populations.

(b) The Fund shall be used to provide:

(1) Pre-development loans for nonprofit housing developers;

(2) Grants for architectural designs for adaptive re-use of previously nonresidential structures;

(3) Loans to develop housing and provide housing services for low- and very low-income elderly persons who have special needs;

(4) Bridge loans and gap financing to reduce up-front costs and costs of residential development and to keep a housing project in operation, if circumstances change adversely during development;

(5) Loans for first-effort model projects;

(6) Financing for the construction of new housing, or rehabilitation or preservation of existing housing;

(7) Financing for site acquisition, construction loan guarantees, collateral, or operating capital;

(8) Loans or grants to finance on-site child development facilities for proposed housing or commercial development projects;

(8A) Loans authorized through the Homestead Housing Preservation Program in § 42-2107;

(8B) Payments to a person contracted to perform services under § 42-2105.01;

(9) Other loans and grants for housing production determined by the Department to be consistent with the purposes of this chapter;

(10) Funds for the administration of the Fund, not to exceed 10% in fiscal year 2009 or earlier, not to exceed 15% in fiscal year 2010, not to exceed 15% in fiscal year 2011, and not to exceed 10% in fiscal year 2012 or later of the funds deposited into the Fund pursuant to subsection (c) of this section; and

(11)(A) Funds for the New Communities Initiative as that term is defined in subparagraph (B) of this paragraph; provided, that the use of the funds for the initiative is consistent with the provisions and purposes of this section and

meets the requirements of § 42-2812.03(d) and the rules promulgated pursuant to this chapter.

(B) For the purposes of this paragraph, the term "New Communities Initiative" means a large scale and comprehensive plan, submitted by the Mayor to the Council for approval, that provides housing infrastructure with a special focus on public housing, provides critical social support services, decreases the concentration of poverty and crime, enhances access to education, and provides training and employment education to neighborhoods where crime, unemployment, and truancy converge to create intractable physical and social conditions.

(b-1)(1) At least 40% of the funds disbursed from the Fund during a fiscal year shall be for the purposes of assisting in the provision of housing opportunities for very low-income households, which includes individuals who have previously been incarcerated for or convicted of a felony under state or federal law and who are otherwise entitled to services and assistance pursuant to this chapter, including maximizing the possibility of home ownership. The Mayor may submit a written request to the Council for a waiver of the 40% requirement if, by the 4th quarter of the fiscal year, the Mayor has not received a sufficient number of viable housing proposals. The Council shall approve or disapprove the waiver by resolution within 30 days, and the resolution shall be deemed disapproved if the Council does not act within this 30-day period.

(2) At least 40% of the funds disbursed from the Fund during a fiscal year shall be for the purposes of assisting in the provision of housing opportunities for extremely low-income households, including maximizing the possibility of home ownership. The Mayor may submit a written request to the Council for a waiver of the 40% requirement if, by the 4th quarter of the fiscal year, the Mayor has not received a sufficient number of viable housing proposals. The Council shall approve or disapprove the waiver by resolution within 30 days, and the resolution shall [be] deemed disapproved if the Council does not act within this 30-day period.

(3) At least 50% of the funds disbursed from the Fund during a fiscal year shall be for the purposes of assisting in the provision of rental housing. The Mayor may submit a written request to the Council for a waiver of the 50% requirement if, in the 3rd quarter of the fiscal year, the Mayor has not received a sufficient number of viable rental housing proposals. The Council shall approve or disapprove the waiver by resolution within 30 days, and the resolution shall be deemed approved if the Council does not act within the 30-day period.

(b-2)(1) An amount not to exceed $16 million of the funds deposited into the Fund may be used by the Mayor to secure bonds issued for the benefit of the New Communities Initiative or other purposes consistent with the Housing Production Trust Fund uses and pursuant to subsection (b)(11) of this section; provided, that securitization above $16 million may only occur upon certification by the Mayor that resources are needed to fulfill the New Communities projects.

(2) Council authorization by act shall be required for any amount above $12 million in the Fund to secure financing for the New Community Initiative or other purposes consistent with the Housing Production Trust Fund uses.

(b-3) Notwithstanding any other provision of this chapter or any other law to the contrary, $4 million of the funds deposited into the Fund may be made available by the Mayor to the Workforce Housing Land Trust. The uses of the funds shall be governed exclusively by the provisions of the Land Trust Plan and the requirements of subchapter III-A of Chapter 10 of Title 6 [§ 6-1061.01 et seq.].

(b-4)(1) Notwithstanding any other provision of this chapter or any other law, the Mayor may transfer an amount not to exceed $18 million from the Fund to the Rent Supplement Fund established by § 6-226(d)(1), for the purpose of funding in fiscal year 2012 the assistance programs set forth in §§ 6-226 through 6-229.

(2) None of the funds transferred to the Rent Supplement Fund pursuant to paragraph (1) of this subsection shall be used for administrative costs.

(3) If, pursuant to the Contingency for Additional Estimated Revenue Act of 2011, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025) [Subtitle P of Title VII of D.C. Law 19-21], the appropriation for the District of Columbia Housing Authority is increased by an amount by which a revised revenue estimate exceeds the revenue estimate of the Chief Financial Officer of the District of Columbia dated February 28, 2011, the transfer set forth in paragraph (1) of this subsection shall be reduced by an equal amount.

(b-5)(1) Notwithstanding any provision of this chapter or any other law, the Mayor may transfer an amount not to exceed $19,969,048 designated for deposit into the Rent Supplement Fund, established by § 6-226, toward existing project-based and sponsor-based voucher assistance, as described in § 6-227, tenant-based assistance, as described in § 6-228, and capital-based assistance, as described in § 6-229, and awarded under the Rent Supplement Program, established in § 6-226, in or before fiscal year 2010.

(2) None of the funds transferred pursuant to paragraph (1) of this subsection shall be used for administrative costs.

(c) There shall be deposited in the Fund:

(1) Fee option contributions made by commercial developers under a commercial linked development policy to be established by statute by the Council;

(2) Community development program contributions made pursuant to subchapter I of Chapter 7 of Title 26, as determined by the Superintendent of Banking and Financial Institutions in consultation with the Department;

(3) Appropriated amounts;

(4) Grants, fees, donations, or gifts from public and private sources;

(5) Repayments of principal and interest on loans provided from the Fund;

(6) Proceeds realized from the liquidation of security interests held by the District under terms of assistance provided from the Fund;

(7) Interest earned from the deposit or investment of monies from the Fund;

(8) All revenues, receipts, and fees of whatever source derived from the operation of the Fund;

(9) Repealed.

(10) Any fee or portion of an application fee that the Zoning Commission, by rule, may require an applicant for a Planned Unit Development to pay when the applicant proposes a housing production option or fee option in connection with a planned unit development application, to the extent that the Zoning Commission designates that the fee or portion of that fee shall be allocable to the Fund;

(11) Available community development block grants;

(12) Repealed.

(13) Repealed.

(14)(A) Repayments of loans, including principal and interest, provided under § 42-2107; and

(B) Proceeds realized from the liquidation of any security interests held by the District under the terms of assistance provided from the fund through the Homestead Housing Preservation Program established in Chapter 21 of this title;

(15) $5 million on October 1, 2002;

(16) Beginning October 1, 2003, 15% of the real property transfer tax imposed by § 47-903 and 15% of the deed recordation tax imposed by § 42-1103; provided, that if, in any fiscal year, the Chief Financial Officer certifies the proposed budget will not be balanced as required by § 1-206.03(c) if the provisions of this paragraph take effect, the applicable percentage for the fiscal year shall be the amount derived from the available general fund balance;

(16A) [Not funded].

(17) All fines collected pursuant to § 6-1041.03, which shall be used exclusively to fund the Mayor's purchase of dwelling units for sale or rental to low- and moderate-income households as authorized by § 6-1041.04(c).

(d) The Department shall:

(1) Periodically review Fund revenue sources to determine what additional revenue sources may be required to assure the continuation of the Fund and its programs and shall request Council action to access revenue sources otherwise unavailable to the Department;

(2) File with the Chairperson of the Committee on Economic Development quarterly reports on activities and expenditures;

(3) Conduct annual audits, publish annual reports, hold public hearings, and make annual assessments of the continued housing needs of targeted populations;

(4) Monitor for compliance written agreements entered into by the Department and commercial developers pursuant to this chapter;

(5) Provide outreach and housing production counseling and technical assistance to individuals or groups interested in producing housing for targeted populations as provided in § 42-2803(b);

(6) Encourage profit and nonprofit developers to produce housing units of 3 or more bedrooms designed to accommodate large families and to produce child development facilities in a housing development;

(7) Give priority to nonprofit housing developers for receipt of loans from the Fund; and

(8) Include in the rules promulgated pursuant to § 42-2804 provisions to assure that housing units produced pursuant to this chapter shall be affordable on a continuing basis for targeted populations; provided, that the Department shall not be required to assure affordability on a continuing basis where assistance is provided for the rehabilitation of owner-occupied single-family homes or where assistance is provided under Chapter 21 of Title 42 or another statutory program.

(Mar. 16, 1989, D.C. Law 7-202, § 3, 36 DCR 444; Apr. 19, 2002, D.C. Law 14-114, §§ 501(b), 802, 49 DCR 1468; Oct. 1, 2002, D.C. Law 14-190, § 1102, 49 DCR 6968; June 3, 2003, D.C. Law 14-307, § 302, 49 DCR 11664; Nov. 13, 2003, D.C. Law 15-39, § 222(b), 50 DCR 5668; Mar. 13, 2004, D.C. Law 15-105,§§ 74(a)(2), (d), 75(a), 51 DCR 881; Dec. 7, 2004, D.C. Law 15-205, § 2012(b), 51 DCR 8441; May 24, 2005, D.C. Law 15-357, § 402, 52 DCR 1999; Oct. 20, 2005, D.C. Law 16-33, § 2172(b), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, §§ 5(n), 63, 53 DCR 6794; Mar. 2, 2007, D.C. Law 16-192, § 2062(a), 53 DCR 6899; Mar. 14, 2007, D.C. Law 16-275, § 203, 54 DCR 880; Sept. 18, 2007, D.C. Law 17-20, § 2402(a), 54 DCR 7052; Aug. 16, 2008, D.C. Law 17-219, § 2010, 55 DCR 7598; Dec. 24, 2008, D.C. Law 17-285, § 3(b), 55 DCR 11986; Mar. 25, 2009, D.C. Law 17-365, § 2, 56 DCR 1217; Mar. 3, 2010, D.C. Law 18-111, § 2101, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 2092, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 2033, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 2072, 59 DCR 8025.)

Section references. — This section is referenced in § 6-1054, § 6-1061.02, § 10-801, § 38-2972.01, § 42-1103, § 42-1122, § 42-2801, § 42-2812.01, § 42-2812.02, § 47-903, and § 47-919.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (b-5).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

SUBTITLE VI. NUISANCE PROPERTY.

CHAPTER 31. DRUG-, FIREARM-, OR PROSTITUTION-RELATED NUISANCE ABATEMENT.

Sec.

42-3102.01. Authority to obtain law enforcement records.
42-3111.01. Drug-, Firearm-, or Prostitution-Related Nuisance Abatement Fund.

§ 42-3102.01. Authority to obtain law enforcement records.

Upon request by the Attorney General for the District of Columbia, the United States Attorney for the District of Columbia may provide information

related to a drug-, firearm-, or prostitution-related property that has been obtained from a law enforcement agency.

(Mar. 26, 1999, D.C. Law 12-194, § 3a, as added Apr. 4, 2006, D.C. Law 16-81, § 3(c), 53 DCR 1050; Sept. 26, 2012, D.C. Law 19-171, § 100(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "drug-, firearm-, or prostitution-related" for "drug or prostitution-related."

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 42-3111.01. Drug-, Firearm-, or Prostitution-Related Nuisance Abatement Fund.

(a) There is hereby established a Drug-, Firearm-, or Prostitution-Related Nuisance Abatement Fund ("Fund"), which shall be separate from the General Fund of the District of Columbia. The assets of the Fund shall not exceed $2 million at any time. The Fund shall consist of damages collected in cases brought pursuant to this chapter and any additional funds Congress may make available to the Fund. Such funds shall be deposited in the Fund upon receipt. The funds in the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year, but shall remain available for the purposes set forth in this section, subject to authorization and appropriation by Congress. Any balance in excess of $2 million shall be deposited in the General Fund of the District of Columbia.

(b) The funds in the Fund shall be available for use by the Attorney General to carry out the enforcement of this chapter, including all costs reasonably related to prosecuting cases and conducting investigations pursuant to this chapter.

(c) Disbursements made from the Fund to the Office of Attorney General or other appropriate agency shall be used to supplement and not supplant the Office of the Attorney General's appropriated operating budget.

(Mar. 26, 1999, D.C. Law 12-194, § 12a, as added Apr. 4, 2006, D.C. Law 16-81, § 3(e), 53 DCR 1050; Sept. 26, 2012, D.C. Law 19-171, § 100(b), 59 DCR 6190.)

Section references. — This section is referenced in § 42-3111.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "Drug-, Firearm-, or Prostitution-Related" for "Drug or Prostitution-Related" in the section heading and in the first sentence of (a).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 31A. ABATEMENT OF NUISANCE PROPERTY.

Subchapter II. Registration of Vacant Buildings

Sec.
42-3131.16. Transmission of list by Mayor.

Subchapter II. Registration of Vacant Buildings.

§ 42-3131.16. Transmission of list by Mayor.

(a) Semiannually, the Mayor shall transmit to the Office of Tax and Revenue a list of buildings:

(1) Registered as vacant; provided, that for the purposes of this section and § 47-813(d-1)(5)(A-i)(i)(I)(aa), buildings for which the registration has been revoked shall also be deemed registered; and

(2) For which a notice of final determination has been issued under §§ 42-3131.05 through 42-3131.16 and administrative appeals have been exhausted or expired.

(b) The list shall be in the form and medium prescribed by the Office of Tax and Revenue.

(Apr. 14, 1906, 34 Stat. 115, ch. 1626, § 16, as added Aug. 15, 2008, D.C. Law 17-216, § 3(i), 55 DCR 7500; Sept. 26, 2012, D.C. Law 19-171, § 102, 59 DCR 6190.)

Section references. — This section is referenced in § 42-3131.06, § 47-813, and § 47-4654.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "§§ 42-3131.05 through 42-3131.16" for "this subchapter" in (a)(2).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 31C. QUICK ACQUISITION OF ABANDONED AND NUISANCE PROPERTY.

Subchapter II. Due Process Demolition.

§ 42-3173.12. Nature of remedies.

LAW REVIEWS AND JOURNAL COMMENTARIES

Landlord & Tenant, 31 Catholic University Law Review 830.

SUBTITLE VII. RENTAL HOUSING.

Chapter 32. Landlord and Tenant.

Sec.
42-3226. Lease held by an infant or person with a mental disability — Costs of renewal chargeable to estate of infant or person with a disability or deemed charge upon leasehold.

§ 42-3226. Lease held by an infant or person with a mental disability — Costs of renewal chargeable to estate of infant or person with a disability or deemed charge upon leasehold.

All and every sum and sums of money and other consideration, paid or advanced by any such guardian, trustee, committee or other person, for or on account of the renewal of any such lease or leases, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the infant or person with a mental illness for whose benefit the said lease or leases shall be renewed, or shall be a charge and incumbrance upon the leasehold premises, together with interest for the same, as the said court shall direct and determine.

(29 Geo. 2, ch. 31, § 2, 1756; Kilty's Rep. 253; Alex. Br. Stat. 789; Comp. Stat. D.C., 335, § 71; Apr. 24, 2007, D.C. Law 16-305, § 64(e), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 26(b), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "person with a mental illness" for "lunatic."

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Chapter 33. Master-Metered Apartment Buildings.

§ 42-3301. Definitions.

LAW REVIEWS AND JOURNAL COMMENTARIES

"Tenants' rights and the District of Columbia master meter act: A violation of due process." 2 The District of Columbia Law Review 113 (1993).

§ 42-3302. Opportunity for tenants to receive service in own names; payments made by tenants.

LAW REVIEWS AND JOURNAL COMMENTARIES

Tenants' Rights and the District of Columbia Master Meter Act: A Violation of Due Process. Sally Frank, 2 D.C.L.Rev. 114, (1993).

§ 42-3303. Appointment of receiver; termination.

Section references. — This section is referenced in § 34-2304 and § 42-3302.

LAW REVIEWS AND JOURNAL COMMENTARIES

Tenants' Rights and the District of Columbia Master Meter Act: A Violation of Due Process. Sally Frank, 2 D.C.L.Rev. 114, (1993).

CHAPTER 34. RENTAL HOUSING CONVERSION AND SALE.

Subchapter IV. Opportunity to Purchase

Sec.
42-3404.02. Tenant opportunity to purchase; "sale" defined.

Subchapter I. Findings; Purposes; Definitions.

§ 42-3401.01. Findings.

Section references. — This section is referenced in § 42-1207, § 42-2857.01, and § 47-1303.04.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Rental Housing Conversion and Sale Act: A Practitioner's Roadmap to Tenant Ownership. Richard C. Eisen, 2 D.C.L.Rev. 92, (1993).

Subchapter II. Conversion Procedures.

§ 42-3402.04. Conversion fee.

Section references. — This section is referenced in § 42-3402.10.

CASE NOTES

Exemptions.

Developer, which intended to convert a vacant row house into a condominium, was not procedurally barred from filing for a not-a-housing-accommodation exemption (NHA exemption) from the conversion fee under the

Rental Housing Conversion and Sale Act (Conversion Act) because the Rental Conversion and Sales Division (CASD) of the Department of Housing and Community Development had already issued a notice of filing on developer's condominium registration application, as developer's delayed request for the NHA exemption occurred because developer at first was not aware it qualified for the exemption, developer filed the request shortly after it filed its registration application, the issuance of the notice of filing neither commenced nor ended the conversion process, and CASD was not prejudiced by developer's delay. 1303 Clifton St., LLC v. District of Columbia, 39 A.3d 25, 2012 D.C. App. LEXIS 85 (2012).

Letter from the Administrator of the Rental Conversion and Sales Division (CASD) of the Department of Housing and Community Development, outlining a procedural bar against developer from obtaining a not-a-housing-accommodation exemption (NHA exemption) from the conversion fee under the Rental Housing Conversion and Sale Act (Conversion Act) because the CASD had already issued a notice of filing on developer's condominium registration application, was not entitled to a heightened level of deference when developer judicially challenged the purported procedural bar, as the Administrator's letter was an informal ruling, rather than a rule or regulation adopted through a formal notice-and-comment rulemaking proceeding or contested case in conformity with the District of Columbia Administrative Procedure Act (DCAPA). 1303 Clifton St., LLC v. District of Columbia, 39 A.3d 25, 2012 D.C. App. LEXIS 85 (2012).

Developer, which intended to convert a vacant row house into a condominium, was not judicially estopped from filing for a not-a-housing-accommodation exemption (NHA exemption) from the conversion fee under the Rental Housing Conversion and Sale Act (Conversion Act) because the Rental Conversion and Sales Division (CASD) of the Department of Housing and Community Development had already approved developer's application for the vacancy exemption from the tenant approval provision of the Conversion Act; in both its vacancy exemption application and its conversion fee application developer characterized the building as an uninhabitable shell, and developer did derive an unfair advantage or impose an unfair detriment on CASD by seeking the additional conversion fee exemption. 1303 Clifton St., LLC v. District of Columbia, 39 A.3d 25, 2012 D.C. App. LEXIS 85 (2012).

Subchapter III. Relocation Assistance.

§ 42-3403.07. Housing Assistance Fund. [Repealed].

Editor's notes. — Section 104 of D.C. Law 19-171, § 104 made a technical correction to D.C. Law 19-21 which did not affect the repeal of this section.

Subchapter IV. Opportunity to Purchase.

§ 42-3404.02. Tenant opportunity to purchase; "sale" defined.

(a) Before an owner of a housing accommodation may sell the accommodation, or issue a notice of intent to recover possession, or notice to vacate, for purposes of demolition or discontinuance of housing use, the owner shall give the tenant an opportunity to purchase the accommodation at a price and terms which represent a bona fide offer of sale.

(b) For the purposes of subchapters IV and V of this chapter, the terms "sell" or "sale" include, but are not limited to, the execution of any agreement pursuant to which the owner of the housing accommodation agrees to some, but not all, of the following:

(1) Relinquishes possession of the property;

(2) Extends an option to purchase the property for a sum certain at the end of the assignment, lease, or encumbrance and provides that a portion of

the payments received pursuant to the agreement is to be applied to the purchase price;

(3) Assigns all rights and interests in all contracts that relate to the property;

(4) Requires that the costs of all taxes and other government charges assessed and levied against the property during the term of the agreement are to be paid by the lessee either directly or through a surcharge paid to the owner;

(5) Extends an option to purchase an ownership interest in the property, which may be exercised at any time after execution of the agreement but shall be exercised before the expiration of the agreement; and

(6) Requires the assignee or lessee to maintain personal injury and property damage liability insurance on the property that names the owner as the additional insured.

(c)(1) For the purposes of subchapters IV and V of this chapter, the term "sell" or "sale" shall include:

(A) A master lease which meets some, but not all, of the factors described in subsection (b) of this section or which is similar in effect; and

(B)(i) The transfer of an ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns an accommodation as its sole or principal asset, which, in effect, results in the transfer of the accommodation pursuant to subsection (a) of this section.

(ii) For the purposes of sub-subparagraph (i) of this subparagraph, the term "principal asset" means the value of the accommodation relative to the entity's other holdings.

(2) For the purposes of subchapters IV and V of this chapter, and notwithstanding anything to the contrary herein, the term "sell" or "sale" shall not include:

(A)(i) A transfer, even though for consideration, by a decedent's estate to members of the decedent's family if the consideration arising from the transfer will pass from the decedent's estate to, or solely for the benefit of, charity.

(ii) For purposes of sub-subparagraph (i) of this subparagraph, the term "member's [members] of the decedent's family" means:

(I) A surviving spouse, or domestic partner as defined in § 32-701(3), of the decedent, lineal descendants of the decedent, or spouses of lineal descendants of the decedent;

(II) A trust for the primary benefit of the persons referred to in sub-sub-subparagraph (I) of this sub-subparagraph; and

(III) A partnership, corporation, or other entity controlled by the individuals referred to in sub-sub-subparagraphs (I) and (II) of this sub-subparagraph;

(B) An inter-vivos transfer, even though for consideration, between spouses, parent and child, siblings, grandparent and grandchild, or domestic partners as defined in § 32-701(3);

(C) A transfer of legal title or an interest in an entity holding legal title to a housing accommodation pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage;

(D) A tax sale or transfer pursuant to tax foreclosure;

(E) A bankruptcy sale;

(F) Any transaction involving accommodations otherwise subject hereto expressly contemplated by a registration statement filed with the Securities and Exchange Commission prior to February 22, 1994;

(G) Any transfer of a property directly caused by a change in the form of the entity owning the property; provided, that the transfer is without consideration, including a transfer of interests in an entity to an entity under § 29-204.06;

(H) The transfer of interests in a partnership or limited liability company that owns an accommodation as its sole or principal asset; provided, that the sole purpose of the transfer is to admit one or more limited partners or investor members who will make capital contributions and receive tax benefits pursuant to section 42 of the United States Internal Revenue Code of 1986 approved October 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42), or a comparable District program;

(H-i)(i) A conveyance or re-conveyance for a project that improves or renovates the real property located at 733 15th Street, N.W. (Lot 22, Square 222), commonly known as "The Woodward Building," if:

(I)(aa) It was operated as an office building until being vacated by commercial tenants to accommodate rehabilitation of the building;

(bb) It was or is being redesigned for residential tenants, having previously not been designed for such use; and

(cc) It was not occupied by residential tenants at the commencement of the project or as of October 18, 2007;

(II) Its zoning is appropriate for its proposed residential use;

(III) There is a conveyance by 15th and H Street Associates, LLP to the Master Tenant by entering into a master lease with the Master Tenant for the purpose of utilization of historic tax credits for the improvement or the renovation;

(IV) 15th and H Street Associates, LLP:

(aa) Submits a complete application for historic tax credits to the U.S. Department of Interior, National Park Service;

(bb) Receives approval of part 1 and part 2 of the application; and

(cc) Pursues approval of part 3 of the application in good faith;

(V) There is a re-conveyance of the ownership interests within 120 months of the commencement of the project to 15th and H Street Associates, LLP, which re-conveyance restores the ownership interests in 15th and H Street Associates, LLP as existing at the commencement of the project (subject to any other transfers otherwise exempt under this section) and terminates the interest of the Master Tenant in the real property;

(VI) 15th and H Street Associates, LLP does not sell the real property to the Investor Member except as permitted by this subparagraph;

(VII) A Notice of Transfer is issued in accordance with subsection (d)(1)(A) of this section; and

(VIII) Prior to the execution of a residential lease for the building, which execution occurs prior to the re-conveyance provided for in sub-sub-

subparagraph (IV) of this sub-subparagraph, the proposed tenant receives a written notice, on a single page, in a minimum 14-point bold Times Roman font, that:

(aa) 15th and H Street Associates, LLP has entered into a master lease with the Master Tenant for the purpose of utilizing historic tax credits;

(bb) Within 120 months of the execution of the master lease, there may be a re-conveyance of the interest held by the Master Tenant to 15th and H Street Associates, LLP, which re-conveyance restores the ownership interests in 15th and H Street Associates, LLP as existing at the commencement of the project (subject to any other transfers otherwise exempt under this section) and terminates the interest of the Master Tenant in the real property; and

(cc) The conveyances and re-conveyances, with respect to the real property only, are exempt from the provisions of this act if the requirements of this subparagraph are met, including the requirement that 15th and H Street Associates, LLP:

(1) Submits a complete application for historic tax credits to the U.S. Department of Interior, National Park Service;

(2) Receives approval of part 1 and part 2 of the application; and

(3) Pursues approval of part 3 of the application in good faith.

(ii) For the purposes of this subparagraph, the term:

(I) "Conveyance" or "re-conveyance" means a transfer of interests in real property or an entity, including by sale, exchange, or execution or termination of a master lease, or a combination thereof.

(II) "Historic tax credits" means tax credits under section 47 of the Internal Revenue Code of 1986, approved October 16, 1962 (76 Stat. 966; 26 U.S.C. § 47).

(III) "Investor Member" means an investor in the Master Tenant.

(IV) "Master Tenant" means a limited partnership or limited liability company that will:

(aa) Be primarily owned by Investor Members who will have a noncontrolling interest; and

(bb) Own a noncontrolling interest in 15th and H Street Associates, LLP.

(V) "Noncontrolling interest" means an equity interest under which the Investor Member shall not, notwithstanding the Investor Member's customary consent rights, and absent a default or breach by the managing partner:

(aa) Exercise management or control over any aspect of the project, including acting as directors, officers, managers, or decision-makers in the project; or

(bb) Play a role in selecting, recommending, or choosing directors, officers, managers, or decision-makers in the project.

(iii) For the purposes of this subparagraph, failure to comply with the requirements of sub-subparagraph (I) through (VIII) of this subparagraph shall require 15th and H Street Associates, LLP to comply anew with the

requirements of this chapter as though this subparagraph had not been enacted.

(I) A transfer of title to the housing accommodation to an entity under § 29-204.06;

(J) A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where the transferor is the current beneficiary of the trust pursuant to § 42-1102(17);

(K) A transfer of the housing accommodation to a named beneficiary of a revocable trust by reason of the death of the grantor of the revocable trust, pursuant to § 42-1102;

(L) A transfer of the housing accommodation by the trustee of a revocable trust if the transfer would otherwise be excluded under this act if made by the grantor of the revocable trust, pursuant to § 42-1102(19);

(M) A transfer pursuant to court order or court-approved settlement; and

(N) A transfer by eminent domain or under threat of eminent domain.

(3) An owner who is uncertain as to the applicability of this chapter shall be deemed to be an aggrieved party for the purposes of seeking declaratory relief under §§ 42-3405.03 and 42-3405.03a. The tenant or tenant organization in such an accommodation shall be deemed to be an aggrieved party, for these purposes.

(d)(1)(A) In addition to any other notice required by subchapters IV and V of this chapter, if an opportunity to purchase is not provided under this section, the owner shall provide each tenant and the Mayor written notice ("Notice of Transfer") of the transfer of an interest in a housing accommodation or of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns a housing accommodation.

(B) Notwithstanding any other provision in this chapter, an owner shall not be required to file a Notice of Transfer for a transfer exempt under subsection (c)(2)(A), (D), (E), (F), (I), (J), (K), (L), (M), or (N) of this section; provided, that a notice of the transfer shall be filed with the Mayor in a form prescribed by the Mayor.

(C) Notwithstanding any other provision in this chapter, an owner shall not be required to a Notice of Transfer for a transfer exempt under subsection(c)(2)(C) of this section.

(2) The Notice of Transfer shall be sent by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by personal service, at least 90 days prior to the proposed date of transfer. Notice to tenants shall be sent to their address at the housing accommodation unless a tenant has supplied in writing to the owner a different address for notice.

(3)(A) The Notice of Transfer shall be substantially in the form prescribed by the Mayor and shall provide, at a minimum, a statement of the tenant or tenant organization's rights under this chapter, an accurate description of the transfer containing all material facts, the date of the proposed transfer, and the reason, if any, why the owner asserts the transfer may not constitute a sale.

(B) In addition to any other requirements for the form of the Notice of Transfer prescribed pursuant to subparagraph (A) of this paragraph, a Notice

of Transfer for a housing accommodation to be transferred for the purposes of receiving tax benefits pursuant to section 42 of the United States Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42), or a comparable District program, shall include a description of the applicable federal or District subsidy, and a description of the steps in the transaction employed by the developer to avail itself of the subsidy.

(4) The owner's failure to provide the Notice of Transfer, or the provision of a notice that is fraudulent or contains material misrepresentations or material omissions, shall create a rebuttable presumption that the transfer constitutes a sale for purposes of subchapters IV and V of this chapter.

(5)(A) An aggrieved tenant or tenant organization duly organized under § 42-3404.11 and meeting pursuant to its bylaws, whichever shall be applicable, may, within 45 days of the Mayor's receipt of the Notice of Transfer, file a notice indicating an intent to file a petition for relief pursuant to § 42-3405.03 or § 42-3405.03a.

(B) A Notice of Intent to File Petition shall be delivered by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by personal service to the Mayor and simultaneously to the owner. The owner's address shall be that set forth in the Notice of Transfer.

(C) Failure of an aggrieved tenant or tenant organization to file timely the Notice of Intent to File Petition shall preclude the tenant or tenant organization from asserting any rights under subchapters IV and V of this chapter relating to the transfer identified in the Notice of Transfer.

(6) Within 30 days of the receipt by the Mayor of the Notice of Intent to File, a tenant or tenant organization shall have 30 days to file a petition for relief under § 42-3405.03 or § 42-3405.03a. A copy of the petition shall be delivered to owner by registered or certified mail, return receipt requested, or by personal service. Failure of a tenant or tenant organization to file timely the petition for relief shall preclude the tenant or tenant organization from asserting any rights under subchapters IV and V of this section relating to the transfer identified in the Notice of Transfer.

(7)(A) Notwithstanding the time requirements for notice in subsection (e)(5)(A) of this section, an aggrieved tenant or tenants, whichever shall be applicable, may, within 30 days of the Mayor's receipt of the notice of transfer of an accommodation pursuant to an exemption in subsection (b)(3) of this section ("Notice of Transfer Pursuant to an Exemption"), file a Notice of Intent to File Petition.

(B)(i) Failure of a tenant or tenants, pursuant to paragraph (7)(A) of this subsection, or a tenant or tenant organization pursuant to paragraph (7)(B) of this subsection, to file timely the Notice of Intent to File Petition shall preclude the tenant or tenant organization from asserting any rights under subchapters IV and V of this chapter relating to the transfer identified in the Notice of Transfer Pursuant to an Exemption of an accommodation pursuant to an exemption.

(ii) A tenant or tenant organization shall be precluded from asserting any rights under subchapters IV and V of this chapter for a transfer exempt under subsection(c)(2)(C) of this section.

(C) Any change in the transfer agreement that would invalidate a claim of exemption shall be reported in writing to the Mayor and proper notice shall be provided to the tenant or tenant organization.

(8) For the purposes of providing notice under this subsection, the term "tenant" shall mean the person or persons who, under the terms of the lease or any amendment or consent executed pursuant thereto, are entitled to occupy the rental unit.

(9)(A) Upon 5 days of request by any person, the Mayor shall provide:

(i) Written certifications, including date of receipt or non-receipt, of any notices received under subchapters IV and V of this chapter; and

(ii) Copies of the notices.

(B) The certifications may be recorded among the records of the Recorder of Deeds and shall be exempt from filing fees.

(10) Notice of Transfer, Notice of Transfer Pursuant to an Exemption, Notice of Intent to File, and the petition for relief pursuant to § 42-3405.03 or § 42-3405.03a shall be referred to as "Time Certain Notices".

(Sept. 10, 1980, D.C. Law 3-86, § 402, 27 DCR 2975; Oct. 19, 1989, D.C. Law 8-49, § 2, 36 DCR 5790; Feb. 5, 1994, D.C. Law 10-68, § 37, 40 DCR 6311; Sept. 6, 1995, D.C. Law 11-31, § 3(i), 42 DCR 3239; Sept. 8, 2004, D.C. Law 15-176, § 3, 51 DCR 5707; July 22, 2005, D.C. Law 16-15, § 2(b), 52 DCR 6885; Mar. 2, 2007, D.C. Law 16-191, § 101(a), 53 DCR 6794; Oct. 18, 2007, D.C. Law 17-40, § 2, 54 DCR 8050; Sept. 12, 2008, D.C. Law 17-231, § 37, 55 DCR 6758; Mar. 5, 2013, D.C. Law 19-210, § 6, 59 DCR 13171.)

Section references. — This section is referenced in § 42-2851.04, § 42-3404.05, and § 42-3404.12.

Effect of amendments.

The 2013 amendment by D.C. Law 19-210 substituted "to an entity under § 29-204.06" for "to a limited liability company as contemplated by § 29-1013" in (c)(2)(G) and (I).

Legislative history of Law 19-210. — Law 19-210, the "District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor's notes.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CHAPTER 35. RENTAL HOUSING GENERALLY.

Subchapter I. Findings; Purposes; Definitions

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42-3501.03. Definitions.

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Sec.
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Subchapter IX. Miscellaneous Provisions

42-3509.07. Termination.

Subchapter I. Findings; Purposes; Definitions.

§ 42-3501.03. Definitions.

For the purposes of this chapter, the term:

(1) "Annual fair market rental amount" means the annualized sum of the rents collected for all rental units in the housing accommodation during the base calculation year, plus an amount equal to the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for all items, in the Washington, D.C. Standard Metropolitan Statistical Area, during each calendar year; provided, however, that if no rents were collected in the base calculation year because the housing accommodation was then under construction, the annual fair market rental amount shall be a sum equal to the rents which would have been collected during the base calculation year had the housing accommodation been 100% occupied during the entire base calculation year, the sum to be determined by appraisal, as increased by the Consumer Price Index increase under this paragraph.

(2) "Apartment improvement program" means the program which is administered with grant funds from title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 et seq.), by the District of Columbia Department of Housing and Community Development, developed by the Neighborhood Reinvestment Corporation under the national Neighborhood Reinvestment Corporation Act (42 U.S.C. § 8101 et seq.), and operated under the supervision of the public-private Partnership Committee, which program has been established for the purpose of finding solutions to the economic and physical distress of moderate income rental apartment buildings by joining the tenants, housing provider, noteholder, and the District government in a collective effort.

(3) "Base calculation year" means the calendar year immediately preceding the first calendar year in which a given housing accommodation is made subject to §§ 42-3502.05(f) through 42-3502.19, or any future District law limiting the amount of rent which can lawfully be demanded or received from a tenant.

(4) "Base rent" means that rent legally charged or chargeable on April 30, 1985, for the rental unit which shall be the sum of rent charged on September 1, 1983, and all rent increases authorized for that rental unit by prior rent control laws or any administrative decision issued under those laws, and any rent increases authorized by a court of competent jurisdiction.

(5) "Building improvement plan" means the agreement executed between the parties of interest, including the tenants, housing provider, and the District government, at a property being treated under the apartment improvement program, which agreement sets forth the remedies to the property's distress, including, but not limited to:

(A) A schedule of repairs and capital improvements which, at a minimum, will bring the property into substantial compliance with the housing regulations;

(B) A schedule of services and facilities; and

(C) A schedule of rents charged and rent increases; and which agreement is monitored by the District government until it expires upon completion of all physical improvements and other scheduled activities included therein.

(6) "Capital improvement" means an improvement or renovation other than ordinary repair, replacement, or maintenance if the improvement or renovation is deemed depreciable under the Internal Revenue Code (26 U.S.C.).

(7) "Cooperative housing association" means an association incorporated for the purpose of owning and operating residential real property in the District, the shareholders or members of which, by reason of their ownership of stock or membership certificate, a proprietary lease, or evidence of membership, are entitled to occupy a dwelling unit under the terms of a proprietary lease or occupancy agreement.

(8) "Council" means the Council of the District of Columbia.

(8A) "Division" means the Rental Accommodations Division established by § 42-3502.03 or the Rental Conversion and Sale Division established by § 42-3502.04a.

(9) "Distressed property" means a housing accommodation that:

(A) Is experiencing, and has experienced for at least 2 years, a negative cash flow;

(B) Has been cited by the Department of Consumer and Regulatory Affairs as being in substantial noncompliance with the housing regulations;

(C) Has been subject to deferred maintenance as a result of negative cash flow; and

(D) Has been in arrears on either permanent mortgage loan-payments, property tax payments, fuel and utility payments, or water or sewer fee payments.

(10) Repealed.

(11) "Dormitory" means any structure or building owned by an institution of higher education or private boarding school, in which at least 95% of the units are occupied by presently matriculated students of the institution of higher education or private boarding school.

(12) "Elderly tenant" means a person who is 60 years of age or older and, for the purposes of subchapter III of this chapter, a person who meets the requirements of § 42-3503.01(5) for eligible families and § 42-3503.01(8) for lower-income families.

(13) "Equity" means the portion of the assessed value of a housing accommodation that exceeds the total value of all encumbrances on the housing accommodation.

(14) "Housing accommodation" means any structure or building in the District containing 1 or more rental units and the land appurtenant thereto. The term "housing accommodation" does not include any hotel or inn with a valid certificate of occupancy or any structure, including any room in the structure, used primarily for transient occupancy and in which at least 60% of the rooms devoted to living quarters for tenants or guests were used for transient occupancy as of May 20, 1980. For the purposes of this chapter, a rental unit shall be deemed to be used for transient occupancy only if the

landlord of the rental unit is subject to and pays the sales tax imposed by § 47-2001(n)(1)(C).

(15) "Housing provider" means a landlord, an owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit within a housing accommodation within the District.

(16) "Housing regulations" means the most recent edition of the Housing Regulations of the District of Columbia as established by Commissioner's Order No. 55-1503, effective August 11, 1955.

(17) "Initial leasing period" means that period for which the first tenant of a rental unit rents the rental unit. For units described in § 42-3502.19, the first tenant is the tenant who rents the rental unit immediately after the date it is first offered for rent as a rental unit which is not otherwise exempt from this chapter.

(18) "Interest payments" means the amount of interest paid during a reporting period on a mortgage or deed of trust on a housing accommodation.

(19) "Management fee" means the amount paid to a managing agent and any pro rata salaries of off-site administrative personnel paid by the housing provider, if the duties of the personnel are connected with the operation of the housing accommodation.

(20) "Maximum possible rental income" means the sum of the rents for all rental units in the housing accommodation, whether occupied or not, computed over a base period of the 12 consecutive months within the 15 months preceding the date of any filing required or permitted under this chapter.

(21) "Mayor" means the Office of the Mayor of the District of Columbia.

(22) "Operating expenses" means the expenses required for the operation of a housing accommodation for the 12 consecutive months within the 15 months preceding the date of its use in any computation required by any provision of this chapter, including, but not limited to, expenses for salaries of on-site personnel, supplies, painting, maintenance and repairs, utilities, professional fees, on-site offices, and insurance.

(23) "Other income which is derived from the housing accommodation" means any income, other than rents, which a housing provider earns because of his or her interest in a housing accommodation, including, but not limited to, fees, commissions, income from vending machines, income from laundry facilities, and income from parking and recreational facilities.

(24) "Person" means an individual, corporation, partnership, association, joint venture, business entity, or an organized group of individuals, and their respective successors and assignees.

(25) "Property taxes" means the amount levied by the District government for real property tax on a housing accommodation during a tax year.

(26) "Related facility" means any facility, furnishing, or equipment made available to a tenant by a housing provider, the use of which is authorized by the payment of the rent charged for a rental unit, including any use of a kitchen, bath, laundry facility, parking facility, or the common use of any common room, yard, or other common area.

(27) "Related services" means services provided by a housing provider, required by law or by the terms of a rental agreement, to a tenant in connection

with the use and occupancy of a rental unit, including repairs, decorating and maintenance, the provision of light, heat, hot and cold water, air conditioning, telephone answering or elevator services, janitorial services, or the removal of trash and refuse.

(28) "Rent" means the entire amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities.

(29) "Rent ceiling" means that amount defined in or computed under § 42-3502.06.

(30) "Rental Accommodations Act of 1975" means the Rental Accommodations Act of 1975, effective November 1, 1975 (D.C. Law 1-33).

(31) "Rental Housing Act of 1977" means the Rental Housing Act of 1977, effective March 16, 1978 (D.C. Law 2-54).

(32) "Rental Housing Act of 1980" means the Rental Housing Act of 1980, effective March 4, 1981 (D.C. Law 3-131; Chapter 40 of this title).

(33) "Rental unit" means any part of a housing accommodation as defined in paragraph (14) of this section which is rented or offered for rent for residential occupancy and includes any apartment, efficiency apartment, room, single-family house and the land appurtenant thereto, suite of rooms, or duplex.

(33A) "Single-room-occupancy housing" means a rental housing accommodation comprised of rental units, each of which is intended for occupancy and is occupied by a single adult either living alone or living with not more than 1 child of age 6 years or younger, and that may, but is not required to, contain sanitary and food-preparation facilities.

(34) "Substantial rehabilitation" means any improvement to or renovation of a housing accommodation for which:

(A) The building permit was granted after January 31, 1973; and

(B) The total expenditure for the improvement or renovation equals or exceeds 50% of the assessed value of the housing accommodation before the rehabilitation.

(35) "Substantial violation" means the presence of any housing condition, the existence of which violates the housing regulations, or any other statute or regulation relative to the condition of residential premises and may endanger or materially impair the health and safety of any tenant or person occupying the property.

(36) "Tenant" includes a tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy, or the benefits of any rental unit owned by another person.

(37) "Uncollected rent" means the amount of rent and other charges due for at least 30 days but not received from tenants at the time any statement, form, or petition is filed under this chapter.

(38) "Vacancy loss" means the amount of rent not collectable due to vacant units in a housing accommodation. No amount shall be included in vacancy loss for units occupied by a housing provider or his or her employees or otherwise not offered for rent.

(July 17, 1985, D.C. Law 6-10, § 103, 32 DCR 3089; Aug. 25, 1994, D.C. Law 10-155, § 2(a), 41 DCR 4873; Sept. 18, 2007, D.C. Law 17-20, § 2003(a), 54 DCR 7052; Mar. 25, 2009, D.C. Law 17-353, § 184(a), 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-171, § 103, 59 DCR 6190.)

Section references. — This section is referenced in § 6-751.11, § 42-903, § 42-2851.02, § 42-3171.01, § 42-3173.01, § 42-3502.06, § 42-3502.09, § 42-3502.21, § 42-3508.04, § 47-830, and § 47-865.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 added (8A); and repealed (10), which formerly read: "'Division' means the Rental Accommodations Division established by § 42-3502.03 or the Rental Conversion and Sale Division established by § 42-3502.04a."

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter II. Rent Stabilization Program.

§ 42-3502.17. Security deposit.

(a) No person shall demand or receive a security deposit from any tenant for a rental unit occupied by the tenant upon July 17, 1985, where no security deposit had been demanded or received of the tenant for the rental unit before July 17, 1985, but this provision shall not prevent the collection of security deposits for newly constructed units or units exempted under § 42-3502.05(a)(4) and (7). Security deposits shall be collected pursuant to the Security Deposit Act, effective February 20, 1976 (D.C. Law 1-48; 14 DCMR 308 et seq.).

(b) The Office of Administrative Hearings may adjudicate complaints for the non-return of tenant security deposits and for the nonpayment of interest on tenant security deposits pursuant to section 2908 of the Housing Regulations of the District of Columbia (14 DCMR §§ 308 through 311).

(July 17, 1985, D.C. Law 6-10, § 217, 32 DCR 3089; Mar. 14, 2007, D.C. Law 16-276, § 3, 54 DCR 889; Mar. 25, 2009, D.C. Law 17-366, § 2(h), 56 DCR 1332; June 7, 2012, D.C. Law 19-140, § 2, 59 DCR 2879.)

Section references. — This section is referenced in § 42-3502.05.

Effect of amendments.

D.C. Law 19-140, in subsec. (b), substituted "complaints for the non-return of" for "complaints for the nonpayment of interest on".

Legislative history of Law 19-140. — Law 19-140, the "Tenant Security Deposits Clarification Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-190, which was referred to the Committee on Housing and Workforce Development. The Bill was adopted on first and second readings on February 7, 2012, and March 6, 2012, respectively. Signed by the Mayor on April 9, 2012, it was assigned Act No. 19-343 and transmitted to both Houses of Congress for its review. D.C. Law 19-140 became effective on June 7, 2012.

Subchapter IV. Revenue.

§ 42-3504.01. Rental unit fee.

(a) Each housing provider required to register under this chapter, including

those otherwise exempt from rental control and registration pursuant to § 42-3502.05(a)(3), shall pay a fee of $21.50 for each rental unit in a housing accommodation registered by the housing provider. The fee shall be paid annually to the District government at the time the housing provider applies for a basic business license or a renewal of the basic business license; or in the case of a housing accommodation for which no basic business license is required, at the time and in the manner the Commission may determine. The fees shall be deposited in the fund established pursuant to § 42-3131.01(b).

(b) Repealed.

(c) A nonprofit rental housing provider shall be exempt from the rental unit fee if the provider:

(1) Establishes rent schedules for 440 or more subsidized housing units affordable to tenants from low-income, very-low income, or extremely low-income households, as these incomes are defined in § 42-2801; and

(2) Does not receive subsidies but whose income-restricted units would otherwise satisfy the eligibility requirements under:

(A) The Housing Choice Voucher Program under 42 U.S.C. § 1437(f); or

(B) The Low Income Housing Tax Credit under 26 U.S.C. § 42.

(d) For the purposes of this section, the term "nonprofit rental housing provider" means an organization operating rental units or housing accommodations on a nonprofit basis under which no part of the net earnings of the housing provider inure to the benefit of or are distributable to its directors, officers, or any other private individual except as reasonable compensation for services rendered to the nonprofit housing provider.

(July 17, 1985, D.C. Law 6-10, § 401, 32 DCR 3089; Sept. 30, 1993, D.C. Law 10-25, § 401, 40 DCR 5489; Oct. 19, 2000, D.C. Law 13-172, § 1202(a), 47 DCR 6308; Dec. 7, 2004, D.C. Law 15-205, § 2092, 51 DCR 8441; Mar. 2, 2007, D.C. Law 16-192, § 2172, 53 DCR 6899; Mar. 3, 2010, D.C. Law 18-111, § 2131, 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, §§ 2002, 9033, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 7032, 59 DCR 8025.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (c) and (d).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter IX. Miscellaneous Provisions.

§ 42-3509.07. Termination.

All subchapters of this chapter, except subchapters III and V and § 42-3509.08, shall terminate on December 31, 2020.

(July 17, 1985, D.C. Law 6-10, § 907, 32 DCR 3089; Oct. 19, 1989, D.C. Law 8-48, § 2(c), 36 DCR 5788; Sept. 26, 1995, D.C. Law 11-52, § 818, 42 DCR 3684; Oct. 19, 2000, D.C. Law 13-172, § 1202(b), 47 DCR 6308; July 22, 2005,

D.C. Law 16-10, § 2, 52 DCR 5244; Mar. 21, 2009, D.C. Law 17-319,§ 4(a), 56 DCR 214; Mar. 12, 2011, D.C. Law 18-328, § 2, 58 DCR 16; Sept. 26, 2012, D.C. Law 19-171, § 105, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 added "and § 42-3509.08."

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 36A. TENANT RECEIVERSHIP.

Sec.

42-3651.05. Appointment of a receiver; continuation of ex parte appointment.

§ 42-3651.05. Appointment of a receiver; continuation of ex parte appointment.

(a)(1) After a hearing, the Court may appoint a receiver for a rental housing accommodation or continue the appointment of a receiver made ex parte if it finds that the petitioner has proven, by a preponderance of the evidence, the existence of the grounds for receivership as set forth in § 42-3651.02 and finds that the respondent has not provided the Court with a sufficient plan for abatement of the conditions alleged in the petition.

(2) Upon acceptance of a respondent's plan, the Court may dismiss the petition or retain the case for purposes of monitoring respondent's execution of the plan. The monitoring shall continue until the Court, on its own motion or that of any party:

(A) Dismisses the petition on grounds that the respondent has completed the plan; or

(B) Finds the respondent has not made sufficient progress to complete the plan, in which event it may order appointment of a receiver under this section.

(b) Except as provided in subsection (c) of this section, the Court may appoint as a receiver any person or entity who has demonstrated to the Court the capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the rental housing accommodation

(c) The Court shall not appoint as a receiver:

(1) An employee of a District of Columbia government agency that licenses or provides a financial payment to the type of housing accommodation being placed in receivership;

(2) A person who has a financial interest in any other real property in common with the owner of the property being placed under receivership; or

(3) A parent, child, grandchild, spouse, or domestic partner as defined in § 32-701(3), sibling, first cousin, aunt, or uncle of the owner of the property

being placed under receivership or a tenant of the property being placed under receivership, whether the relationship arises by blood, marriage, or adoption.

(d)(1) Before a receiver takes charge of a rental housing accommodation, the receiver shall post a bond, the premiums of which may be paid in installments, with the Court, which bond:

(A) Does not exceed the value of the rental housing accommodation and its furnishings, records, and other related personal property and goods; and

(B) Is held by the Court for the benefit of all persons interested in the faithful performance of the receivership.

(2) Unless the Court directs otherwise, the receiver may pay the premium of the bond from the rental housing accommodation's income.

(3) The bond requirement of this subsection may be waived by the Court for good cause.

(e) Any person authorized to file a petition under § 42-3651.03 may petition the Court to appoint a substitute if a receiver:

(1) Dies;

(2) Has or develops a disability which impedes his or her ability to carry out the receivership;

(3) Has or develops a conflict of interest; or

(4) Fails to make reasonable progress in carrying out the receivership.

(f) As part of any order appointing a receiver, or in any plan for abatement presented by a respondent, the Court may, in appropriate circumstances, order that the respondent contribute funds in excess of the rents collected from the rental housing accommodation for the purposes of abating housing code violations and assuring that any conditions that are a serious threat to the health, safety, or security of the occupants or public are corrected.

(Apr. 27, 2001, D.C. Law 13-281, § 505, 48 DCR 1888; Sept. 8, 2004, D.C. Law 15-176, § 4, 51 DCR 5707; Mar. 21, 2009, D.C. Law 17-319, § 5(b), 56 DCR 214; Sept. 26, 2012, D.C. Law 19-171, § 106, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (f).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.